

**ARTICLE I
GENERAL PROVISIONS**

CHAPTER 1.01. TITLE AND APPLICATION.

Section 1.01.01. Title.

This ordinance shall be known and referred to as “The Zoning Ordinance of the City of Clear Lake, South Dakota.”

Section 1.01.02. Jurisdiction.

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

Section 1.01.03. Purpose and Intent.

This zoning ordinance is enacted for the purpose set forth and provided for in South Dakota Compiled Laws and Amendments, Chapters 11-4 and 11-6, that is, among other things to promote the health, safety, peace, comfort, convenience, prosperity, morals, and general welfare of the community.

This ordinance has been prepared in accordance with the Comprehensive Land Use Plan for the City and is designed to coordinate physical development of the community with needs for public services and facilities. More specifically, the Zoning Ordinance is adopted in order to achieve the following objectives:

1. To foster a harmonious, convenient, workable relationship among land uses.
2. To promote the stability of existing land uses that conform with the Comprehensive Land Use Plan and to protect them from inharmonious influences and harmful intrusions.
3. To insure that public and private lands ultimately are used for the purposes which are most appropriate and most beneficial from the standpoint of the community as a whole.
4. To prevent excessive population densities and overcrowding of the land with structures.
5. To protect and enhance real estate values.
6. To safeguard and enhance the appearance of the community, including natural amenities.
7. To place the power and responsibility of the use of land in the hands of the property owner contingent upon the compatibility of surrounding uses and the comprehensive land use plan.

CHAPTER 1.02. ORDINANCE PROVISIONS

Section 1.02.01. Provisions of Ordinance Declared to Be Minimum Requirements.

Wherever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted rules, ordinances, deed restrictions, or covenants, the most restrictive or that imposing the higher standards, shall govern.

Section 1.02.02. Violations/Penalties for Violation.

1. Violations of the ordinance shall be treated in the manner specified below.
 - a. Any person who starts work for which a permit (building, conditional use, variance, rezoning) is required by this zoning ordinance, without first securing such permit and paying the applicable permit fee(s) established in accordance with Section 3.01.03 of these ordinances, shall be charged according to the provisions of this section. All administrative fees assessed there under shall be rounded to the nearest whole dollar.
 - i. Upon finding such violation, the Administrative Official shall notify the owner of property involved verbally or by sending a written notification of the requirement that a permit be obtained to the owner of the property involved by certified mail with return receipt requested. Application for said permit shall be filed within seven (7) working days from the verbal notification or date of receipt of the letter.
 - ii. If application for said permit is filed after the original deadline of seven (7) working days following the verbal notice or receipt of the notification of the requirement therefore, there shall be imposed an administrative fee in the amount of one hundred percent (100%) the normal fee for the associated building permit, conditional use permit, variance, and/or rezoning. The payment of the administrative fee shall not relieve such person from the provisions of paragraph (b) below.
 - iii. Any administrative fee or penalty imposed under the provisions of this zoning ordinance shall be in addition to any other fees or charges required under this zoning ordinance.
 - b. It is declared unlawful for the owner or any agent of a building or premises in or upon which a violation of any provision of these regulations has been committed or shall exist, or the lessee or tenant of an entire building or entire premises in or upon which violation has been committed or shall exist, or the agent, architect, building contractor or any other person who commits, takes part or assists in any violation or who maintains any building or premises in or upon which such violation shall exist to violate any of the terms and provisions of these regulations or other official control adopted by the City Commission pursuant thereto. Any person who violates, disobeys, omits, neglects or refuses to comply with or resists the enforcement of any provision of this zoning ordinance may be subject to a civil or criminal penalty. The penalty for violation of this zoning ordinance shall be five hundred dollars (\$500.00) or imprisonment for not more than thirty (30) days, or both, and in addition the violator shall pay all costs and expenses involved in the case. Each and every day that such violation continues after notification may constitute a separate offense. All fines for violation shall be paid to the Finance Officer and shall be credited to the General Fund of the City.

- c. In the event any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or any building or structure or land is used in violation of this ordinance or other regulation, the Administrative Official, or the City of Clear Lake, as a corporation or any interested person, in addition to other remedies, may institute injunction, mandamus or any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use of land, to restrain, correct or abate such violation, to prevent the occupancy of said building or land or to prevent any illegal act, conduct, business, or use in and to and of such premises.
- d. Any taxpayer of the City may institute mandamus proceedings in Circuit Court to compel specific performance by the proper official or officials of any duty required by these regulations.

Section 1.02.03. Separability Clause.

Should any article, chapter, section, or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any part other than the part so declared to be unconstitutional or invalid.

Section 1.02.04. Repeal of Conflicting Ordinances.

All ordinances or part of ordinances in conflict with this Ordinance or inconsistent with the provisions of this Ordinance are repealed entirely.

Section 1.02.05. Effective Date.

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

CHAPTER 1.03. OFFICIAL ZONING MAP

Section 1.03.01. Official Zoning Map.

The City is hereby divided into zones, or districts, as shown on the Official Zoning Map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance.

The Official Zoning Map shall be identified by the signature of the Board President of the City of Clear Lake attested by the City Finance Officer under the following words: "This is to certify that this is the Official Zoning Map referred to in Chapter 1.03 of Ordinance Number [redacted] of the City of Clear Lake, State of South Dakota," together with the date of the adoption of this Ordinance. The Official Zoning Map shall be on file at the office of the City Council.

If, in accordance with the provisions of this Ordinance and Chapter 11-4, as amended, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall not become effective until after said changes have been made on the Official Zoning Map by the City Finance Officer or in his/her absence a person designated by the City

Council. Any unauthorized change by any person or persons shall be considered a violation of this Ordinance and punishable as provided under Chapter 1.02, Section 1.02.02.

Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map, which shall be located in the City Offices, shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the City of Clear Lake.

Section 1.03.02. Rules Where Map Designation Uncertain.

Where uncertainty exists with respect to the various zoning districts as shown on the Official Zoning Map, the following rules shall apply:

1. The district boundaries are streets or alleys, highways, rights-of-way, railroad rights-of-way, waterways, lot lines, property lines, quarter section lines, half section lines, or full section lines, unless otherwise shown.
2. Where the designation on the Official Zoning Map indicates the various districts are approximately bounded by lot lines, the lot lines shall be the boundaries of such districts unless boundaries are otherwise indicated on the map.
3. In unsubdivided property, the zoning district boundary line on the Official Zoning Map may be determined by use of the scale contained on the map.

Section 1.03.03. Annexation.

Subsequent of the effective date of these regulations, any land annexed into the municipal boundaries of the City of Clear Lake shall be automatically placed into the "A" Agricultural zoning district, unless and until such time as the area is rezoned by amendment of these regulations by ordinance, as provided for in Chapter 3.05, Section 3.05.05 of these regulations.

Section 1.03.04. Changes and/or Replacement of Official Zoning Map.

In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the City Council may by ordinance adopt a new Official Zoning Map, which shall supersede the prior Official Zoning Map. The new Official Zoning Map shall be identified by the signature of the Mayor attested by the City Finance Officer, and bearing the seal of the City under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of map being replaced) as part of the Zoning Ordinance of the City of Clear Lake, State of South Dakota."

Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved together with all available records pertaining to its adoption or amendment.

Changes to the Official Zoning Map shall require amendment of this regulation by ordinance, as provided for in Chapter 3.05, Section 3.05.06 of these regulations.

**ARTICLE II
DISTRICT REGULATIONS**

CHAPTER 2.01 APPLICATION OF DISTRICT REGULATIONS

Section 2.01.01. Applicability of Regulations.

The regulations set forth by this Ordinance within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided.

Section 2.01.02. Compliance; Generally.

No building, or any part thereof shall hereafter be used or occupied, and no building or any part thereof shall be erected, constructed, reconstructed, converted, altered, enlarged, extended, raised, moved or used, and no premises shall be used for any purpose other than a purpose permitted in the Zoning District in which said building or premise is located, except as hereinafter provided.

Section 2.01.03. Structures & Lots; Construction or Alteration; Limitations of.

1. No building or other structure shall hereafter be erected or altered:
 - A. To exceed the height or bulk;
 - B. To accommodate or house a greater number of families;
 - C. To occupy a greater percentage of lot area;
 - D. To have narrower or smaller rear yards, front yards, side yards, or other open spaces than herein required; or in any other manner contrary to the provisions of this Ordinance.
2. No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

CHAPTER 2.02. NON-CONFORMING USES

Section 2.02.01. Intent.

Within the zoning districts established by this ordinance or amendments that may later be adopted there exist lots, structures, uses of land and structures, and characteristics of use which were lawful before this ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this ordinance or future amendment. It is the intent of this ordinance to permit these nonconformities to continue until they are removed, but not to encourage their survival.

Non-conforming uses are declared by this Ordinance to be incompatible with permitted uses in the zoning districts involved. A non-conforming use of a structure, a non-conforming use of land or a non-conforming use of structure and land in combination shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance. And upon which construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

Section 2.02.02. Repairs and Maintenance.

On any non-conforming structure or portion of a structure containing a non-conforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing to an extent not exceeding ten (10) percent of the current replacement cost of the non-conforming structure or non-conforming portion of the structure as the case may be, provided that the cubic content existing when it became non-conforming shall not be increased.

If a non-conforming structure or portion of a structure containing a non-conforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located.

Section 2.02.03. Uses and Structures.

A lawful use or structure existing at the time this Ordinance is adopted or amended may continue even though such use does not conform to the district regulations subject to the following provisions:

1. Whenever, a nonconforming use or structure has been changed to a conforming use, it shall not be changed back to a nonconforming use.
2. If any nonconforming building is destroyed or damaged by any casualty, such building may be repaired or replaced and use continued providing said reconstruction shall not add to the non-conformity or add to the cubic contents of said building as the same existed at the time of such casualty; and provided further that such repair or reconstruction of such building shall begin within six (6) months after such casualty and completed within a reasonable time thereafter. However, if the damage caused by such casualty is such as to cause a loss in value exceeding fifty (50) percent of the replacement value immediately prior to such casualty then it cannot be rebuilt for a non-conforming use. The loss in value shall be computed as the difference between the actual cash value of the structure immediately before and after the casualty. Cash value shall be the same as that used for insurance purposes as approved by the State of South Dakota Insurance Code.

3. When a nonconforming use or structure is discontinued for a period of one (1) year, it shall not be continued unless in conformance with the requirements of this Ordinance and SDCL 11-6-39.
4. Any nonconforming use may be extended throughout any part of a structure, which was arranged or designed for such use previous to the adoption of this Ordinance, but shall not be extended outside each structure.
5. No existing nonconforming use or structure shall be enlarged, moved, or structurally altered except to change to a permitted use. This is not to include normal repairs and maintenance, which do not enlarge, move or structurally alter a nonconforming use.
6. Type I and Type II Manufactured Homes located upon any lot or lots of record at the time of the adoption of this Ordinance may be replaced by Type I and/or Type II Manufactured Homes of like dimensions and said replacement shall not be deemed to have changed the use thereof from a nonconforming to a conforming use. If a replacement Type I and/or Type II Manufactured Home is of larger dimension than the existing Type I and/or Type II Manufactured Home, then application must first be made to the Board of Adjustment for a conditional use permit.
7. Nonstandard uses existing immediately prior to the effective date of this ordinance may be continued, although such uses do not conform to the provisions hereof. Nonstandard buildings or structures may be enlarged or extended, converted, reconstructed, or structurally altered as follows:
 - A. Enlargements, extensions, conversions, or structural alterations may be made as required by law or ordinance.
 - B. Structural alteration of buildings or structures may otherwise be made if such changes do not further encroach into an existing front yard, side yard, or rear yard which is less than the minimum required yards for the district in which they are located. Exception: The Board of Adjustment may allow buildings with side yard setbacks less than required herein to have additions erected in line with the existing building and provided further that said additions will be erected no closer to the lot line than the existing building and the addition shall further conform to all ordinance requirements.
 - C. Enlargement, extension, conversion of buildings or structures may otherwise be made if such changes comply with the minimum required yards, lot area, height, landscaping, parking, and density for the district in which they are located.
8. Nothing contained in this section shall be so construed as to abridge or curtail the powers of the City Planning Commission/Board of Adjustment as set forth elsewhere in this Ordinance.

Section 2.02.04. Uses Under Conditional Use Provisions Not Non-Conforming Uses.

Any use which is permitted as a conditional use in a district under the terms of this Ordinance (other than a change through Board of Adjustment action from a nonconforming use to another use not generally permitted in the district) shall not be deemed a non-conforming use in such district, but shall without further action be considered a conforming use.

Section 2.02.05. Non-conforming Lots of Record.

In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record after the effective date of adoption or amendment of this Ordinance, notwithstanding limitations imposed by other provisions of this Ordinance. Such lots must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such a lot fails to meet the requirements of area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than these applying to area or width, or both, of the lot shall conform to the regulations of the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the Board of Adjustment.

If two (2) or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Ordinance, and all or part of the lots do not meet the requirements established for lot width and area, the land involved shall be considered to be an undivided parcel for the purposes of this Ordinance, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this Ordinance, nor shall any division of any parcel be made which creates a lot with width or area below the requirements in this Ordinance.

CHAPTER 2.03. DISTRICT REGULATIONS

Section 2.03.01. Generally.

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

Any use or uses not expressly permitted in a particular district shall be prohibited, unless such uses are existing at the effective date of these regulations and qualify as nonconforming uses, or unless a Conditional Use Permit is granted as provided for in Chapter 3.05, Section 3.05.02 of these regulations. Deviation from zoning district lot, yard and related requirements, and deviation from these zoning regulations, shall be prohibited, unless a Variance is granted as provided for in Chapter 3.05, Section 3.05.03 of these regulations. Additional requirements and standards for uses and structures permitted by Conditional Use Permit may be established by the Board of Adjustment as conditions to said Conditional Use Permit.

Section 2.03.02. Zoning Districts.

The following zone and use districts are hereby established for the purposes of administration and enforcement of this Ordinance.

- A Agricultural District
- R-1 Single Family Residential District
- R-2 General Residential District
- R-2L Lake Residential District
- R-3 Manufactured Homes Residential District
- PUD Planned Unit Development District
- C-1 General Commercial District
- C-2 Highway Commercial District

I Industrial District

The following districts shall be designated as zoning overlay districts, imposing special regulations on the properties that fall within these overlay districts without abrogating the requirements imposed by the underlying land use district regulations:

CB Central Business Overlay District

WS Water Source Protection Overlay District

CHAPTER 2.04. "A" - AGRICULTURAL DISTRICT

Section 2.04.01. Intent.

The intent of the "A" Agricultural District is to protect agricultural land and uses from incompatible land uses and to prevent premature urban development of certain lands which eventually may be appropriate for urban uses, until the installation of drainage works, streets, utilities and community facilities and until objective projections of appropriate land uses are possible.

Section 2.04.02. Permitted Uses.

The following uses and structures shall be permitted in the "A" Agricultural District:

1. Any form of agricultural activity and related farm buildings, but excluding feed lots.
2. Site built single-family dwellings.
3. Modular and Type I manufactured homes.
4. Public parks and recreation areas.
5. On-premise sign.

Section 2.04.03. Permitted Accessory Uses.

The following accessory uses and structures shall be permitted in the "A" Agricultural District:

1. Accessory uses and structures customarily incidental to permitted uses and structures when established within the space limits of this district.
2. Roadside stands for sales of agricultural products grown or produced on the premises.

Section 2.04.04. Conditional Uses.

The following uses may be permitted as a Conditional Use in the "A" Agricultural District by the Board of Adjustment subject to such requirements as the Board deems necessary to protect adjacent property, prevent objectionable or offensive conditions and promote the health, safety, and general welfare:

1. Type II manufactured homes.
2. Airports.
3. Cemeteries.
4. Commercial or private recreation areas or developments such as golf courses, campgrounds, drive-in theaters, riding stables, racetracks, swimming pools, etc.
5. Extraction of sand, gravel, minerals and petroleum or natural gas.

6. Public buildings or facilities erected or established and operated by any governmental agency.
7. Telecommunication facilities.
8. Animal sales/auction yards or barns.
9. Home occupations.
10. Utility substations.
11. Stable.
12. Commercial Stable.
13. Veterinarian offices and animal hospitals.
14. Nurseries and greenhouses.
15. Commercial grain or vegetable farming or gardening on land assessed as agricultural land but not involving a sales structure.
16. SWECS and VAWT's (See Section 4.19).
17. Kennel.

Section 2.04.05. Prohibited Uses.

All uses and structures not specifically listed as either a Permitted Use or Conditional Use shall be prohibited in the "A" Agricultural District.

Section 2.04.06. Area Regulations.

Minimum lot area, maximum building height, maximum lot coverage and minimum yard requirements shall be regulated in accordance with the following tables:

	Minimum Lot Area	Minimum Lot Width	Maximum Height
Single Family Residential	43,560 square feet	150'	35'
Other Conditional Uses	To be determined by the Board of Adjustment		

	Minimum Front Yard	Minimum Rear Yard	Minimum Side Yard
Permitted Uses	75'	50'	30'
Conditional Uses	To be determined by the Board of Adjustment		

SECTION 2.05 “R-1” SINGLE FAMILY RESIDENTIAL DISTRICT

Section 2.05.01. Intent

The intent of the “R-1” Single Family Residential District is to provide locations for low-density site-built, single-family residential dwellings. Other types of single family residential dwellings and compatible uses may be permitted based upon complying with site review and adjacent landowner concerns.

Section 2.05.02. Principal Permitted Uses

1. Site built single-family dwellings.
2. Modular Homes.
3. Public park and recreation areas.

Section 2.05.03. Permitted Accessory Uses

1. Accessory uses and structures customarily incidental to permitted uses.

Section 2.05.04. Conditional Uses.

The following uses may be permitted as a Conditional Use in the “R-1” General Residential District by the Board of Adjustment, subject to such requirements as the Board deems necessary to protect adjacent property, prevent objectionable or offensive conditions and promote the health, safety and general welfare.

1. Type I manufactured homes.
2. Lodging/boarding houses or bed and breakfast establishments.
3. Utility substations.
4. Home occupations.
5. Religious institutions.
6. Home Occupations.
7. Public and parochial schools.
8. VAWT (See Section 4.19)
9. Public buildings or facilities erected or established and operated by any governmental agency.
10. Nursing homes, convalescent homes, assisted living centers, and homes for the aged. Any building approved for such use shall be set back not less than fifty (50) feet from the street line on which it fronts and shall have side and rear setbacks of not less than thirty (30) feet and shall meet other requirements of this Ordinance.

Section 2.05.05. Prohibited Uses.

All uses and structures not specifically listed as either a Permitted Use or Conditional Use shall be prohibited in the “R-1” Single Family Residential District.

Section 2.05.06. Area/Construction Regulations.

Minimum lot area, maximum building height, maximum lot coverage and minimum yard requirements shall be regulated in accordance with the following tables:

	Minimum Lot Area	Minimum Lot Width	Maximum Height	Maximum Percent Lot Coverage
Single Family Residential	9,000 square feet	75'	35'	30%
Churches, synagogues, chapels and other similar places of worship	87,120 square feet (2 acres)	75'	35**	30%
Other Conditional Uses	To be determined by the Board of Adjustment			

***Maximum height for steeples and towers shall be seventy-five (75) feet*

	Minimum Front Yard*	Minimum Rear Yard	Minimum Side Yard
Permitted Uses	25'	15'	8'
Conditional Uses	To be determined by the Board of Adjustment		

Section 2.05.07. Exception to Minimum Side Yard Requirement.

The Board of Adjustment may grant variance to the minimum side yard requirement, provided an appropriate easement is recorded at the Deuel County Register of Deeds ensuring that no structures shall hereafter be constructed within a distance two times the minimum required side yard (sixteen (16) feet) on the affected adjacent property.

CHAPTER 2.06. “R-2” GENERAL RESIDENTIAL DISTRICT

Section 2.06.01. Intent.

The intent of the “R-2” General Residential District is to provide a stable environment for the development of single-family, two-family and multiple-family dwelling units free from incompatible land uses.

Section 2.06.02. Permitted Uses.

The following uses and structures shall be permitted in the “R-2” General Residential District:

1. Site-built single-family dwellings.
2. Modular homes.
3. Type I manufactured home.
4. Public and parochial schools.
5. Public park and recreation areas.
6. Public buildings or facilities erected or established and operated by any governmental agency.
7. Two-family dwellings;
8. Multiple-family dwellings (i.e., apartment buildings, town houses, and group row houses).

Section 2.06.03. Permitted Accessory Uses.

The following accessory uses and structures shall be permitted in the “R-2” General Residential District:

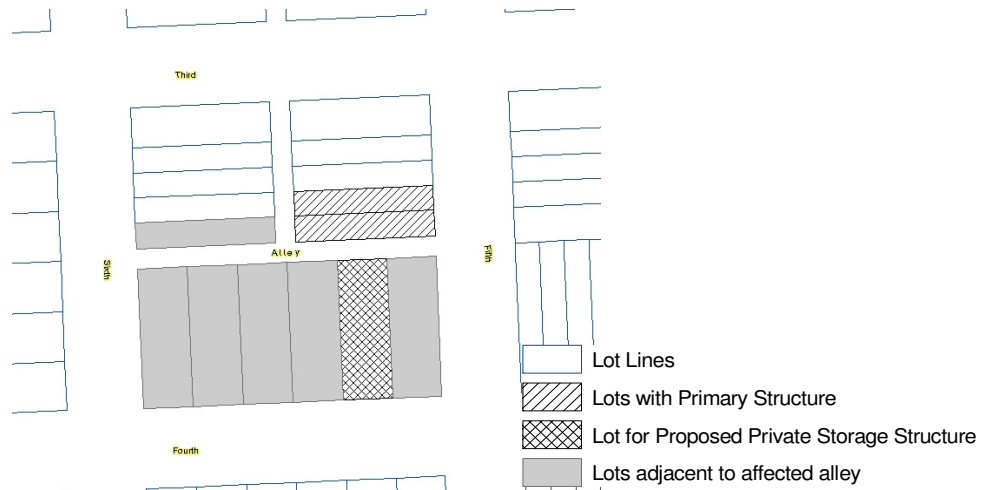
1. Accessory uses and structures customarily incidental to permitted uses except stables;

Section 2.06.05. Conditional Uses.

The following uses may be permitted as a Conditional Use in the “R-2” General Residential District by the Board of Adjustment, subject to such requirements as the Board deems necessary to protect adjacent property, prevent objectionable or offensive conditions and promote the health, safety and general welfare.

1. Lodging/boarding houses or bed and breakfast establishments.
2. Utility substations.
3. Home occupations.
4. Churches.

5. Type II manufactured homes.
6. Day care centers
7. Group Homes
8. VAWT (See Section 4.19)
9. Convalescent homes, assisted living centers, nursing homes, and homes for the aged. Any building approved for such use shall be set back not less than fifty (50) feet from the street line on which it fronts and shall have side and rear setbacks of not less than thirty (30) feet and shall meet other requirements of this Ordinance.
10. Private storage structure subject to the following conditions:
 - A. The storage structures shall be placed on a lot separated by an alley from the lot on which the primary use/structure is located.
 - B. The lot on which the storage structure is to be placed shall only be transferred with the lot on which the primary use/structure is located unless a primary use/structure is constructed on the same lot as said storage structure. A deed restriction stating such shall be recorded at the Deuel County Register of Deeds.
 - C. One hundred percent (100%) of the owners of property adjacent to the affected alley within the same block as the proposed structure shall approve of the construction of said storage structure. See illustration below:



- D. Maximum dimensions shall be limited to thirty (30) feet by forty (40) feet;
- E. Maximum sidewalls shall be limited to twelve (12) feet; and a maximum of 4/12 roof pitch.
- F. Private storage structures shall have siding material of a type customarily used on site-constructed residences. Exception: steel panel siding, not corrugated galvanized steel) may be used only if approved by one hundred percent (100%) of adjacent property owners.

Section 2.06.06. Prohibited Uses.

All uses and structures not specifically listed as either a Permitted Use or Conditional Use shall be prohibited in the “R-2” General Residential District.

Section 2.06.07. Area/Construction Regulations.

Minimum lot area, maximum building height, maximum lot coverage and minimum yard requirements shall be regulated in accordance with the following tables:

	Minimum Lot Area	Minimum Lot Width	Maximum Height	Maximum Percent Lot Coverage
Single Family Residential	6,500 square feet	50'	35'	40%
Two Dwelling Units	3,000 square feet/dwelling unit	50'	35'	40%
Three - Four Dwelling Units	2,500 square feet/dwelling unit	50'	35'	40%
Assisted Living, Nursing and Rest Homes, etc.	2,000 square feet/dwelling unit	60'	35'	40%
Conditional Uses	To be determined by the Board of Adjustment			

	Minimum Front Yard	Minimum Rear Yard*	Minimum Side Yard	
			Party Wall Side	Non-Party Wall Side
Single Family Residential	22'	20'	0'	6'
Two Dwelling Units	22'	20'	0'	6'
Three - Four Dwelling Units	30'	25'	0'	6'
Assisted Living, Nursing and Rest Homes, etc.	50'	25'	0'	30'
Conditional Uses	To be determined by the Board of Adjustment			

Section 2.06.08. Exception to Minimum Side Yard Requirement.

The Board of Adjustment may grant variance to the minimum side yard requirement, provided an appropriate easement is recorded at the Deuel County Register of Deeds ensuring that no structures shall hereafter be constructed within a distance two times the minimum required side yard (twelve (12) feet) on the affected adjacent property.

CHAPTER 2.07. “R-2L” LAKE RESIDENTIAL DISTRICT

Section 2.07.01. Intent.

The intent of the “R-2L” Lake Residential District is to provide an environment for the development of single-family, two-family and multiple-family uses in harmony with lake-oriented commercial, public, and semi-public recreational opportunities in close proximity to Clear Lake. Permitted uses shall encourage medium density residential uses. High density residential, public, and semi-public recreational services, and other commercial uses normally associated with lakeshore development may be permitted where the residential characteristics of the neighborhood and density of development are given consideration.

Section 2.07.02. Permitted Uses:

The following uses and structures shall be permitted in the “R-2L” Lake Residential District:

1. Site-built single-family dwellings.
2. Modular homes.
3. Type I manufactured home.
4. Public and parochial schools.
5. Public park and recreation areas.
6. Public buildings or facilities erected or established and operated by any governmental agency.
7. Two-family dwellings;
8. Multiple-family dwellings (i.e., apartment buildings, town houses, and group row houses).

Section 2.07.03. Permitted Accessory Uses.

The following accessory uses and structures shall be permitted in the “R-2L” Lake Residential District:

1. Accessory uses and structures customarily incidental to permitted uses except stables;

Section 2.07.04. Conditional Uses:

The following uses may be permitted as a Conditional Use in the “R-2L” Lake Residential District by the Board of Adjustment, subject to such requirements as the Board deems necessary to protect adjacent property, prevent objectionable or offensive conditions and promote the health, safety and general welfare.

1. Lodging/boarding houses or bed and breakfast establishments including: motels, hotels, resorts, or tourist cabins subject to setback, landscaping and screening, and off-street parking regulations of this ordinance. The architectural awareness of said uses shall be generally compatible with the building character of the area.

2. Boathouses within fifty (50) feet of the high water mark or from a point as determined by the Board of Adjustment.
3. Utility substations.
4. Home occupations.
5. Churches.
6. Type II manufactured homes.
7. Day care centers
8. Group Homes
9. VAWT (See Section 4.19)
10. Convalescent homes, assisted living centers, nursing homes, and homes for the aged. Any building approved for such use shall be set back not less than fifty (50) feet from the street line on which it fronts and shall have side and rear setbacks of not less than thirty (30) feet and shall meet other requirements of this Ordinance.
11. Campgrounds.
12. Public and private recreational uses including: refreshment stands, recreational vehicle and equipment rentals, and planned amusement facilities.
13. Museums, antique stores, and souvenir shops.
14. Commercial storage garages subject to the following conditions:
 - a. Maximum sidewalls shall be limited to fourteen (14) feet; and a maximum of 4/12 pitch.
 - b. Commercial storage garages shall have siding material of a type customarily used on site-constructed residences. Exception: steel panel siding, not corrugated galvanized steel, may be used only if approved by one hundred percent (100%) of adjacent property owners.

Section 2.07.05. Prohibited Uses.

All uses and structures not specifically listed as either a Permitted Use or Conditional Use shall be prohibited in the "R-2" General Residential District.

Section 2.07.06. Area/Construction Regulations.

Minimum lot area, maximum building height, maximum lot coverage and minimum yard requirements shall be regulated in accordance with the following tables:

	Minimum Lot Area	Minimum Lot Width	Maximum Height	Maximum Percent Lot Coverage
Single Family Residential	6,500 square feet	50'	35'	40%
Two Dwelling Units	3,000 square feet/dwelling unit	50'	35'	40%
Three - Four Dwelling Units	2,500 square feet/dwelling unit	50'	35'	40%
Assisted Living, Nursing and Rest Homes, etc.	2,000 square feet/dwelling unit	60'	35'	40%
Museums, antique stores, souvenir shops, recreational vehicle and equipment rental, and commercial storage structures	10,000 square feet	100'	35'	40%
Lodging/boarding houses or bed and breakfast, resorts, or tourist cabins	10,000 square feet	100'	35'	40%
Other Conditional Uses	To be determined by the Board of Adjustment			

	Lake Front Lots		Non-Lake Front Lots		Minimum Side Yard	
	Front Yard	Rear Yard*	Front Yard	Rear Yard	Party Wall Side	Non-Party Wall Side
Single Family Residential	20'	30'	22'	20'	0'	6'
Two Dwelling Units	20'	30'	22'	20'	0'	6'
Three - Four Dwelling Units	30'	30'	30'	25'	0'	6'
Assisted Living, Nursing and Rest Homes, etc.	50'	30'	50'	25'	0'	30'
Museums, antique stores, souvenir shops, recreational vehicle and equipment rental, and commercial storage structures	30'	30'	30'	20'	20'	
Lodging/boarding houses or bed and breakfast, resorts, or tourist cabins	30'	30'	30'	20'	15'	
Other Conditional Uses	To be determined by the Board of Adjustment					

*Rear yard shall be measured ordinary high water mark or a point as determined by the Board of Adjustment.

Section 2.07.07. Exception to Minimum Side Yard Requirement.

The Board of Adjustment may grant variance to the minimum side yard requirement, provided an appropriate easement is recorded at the Deuel County Register of Deeds ensuring that no structures shall hereafter be constructed within a distance two times the minimum required side yard on the affected adjacent property.

Section 2.07.08. Shoreland Alterations

1. These regulations are deemed necessary along the shores of natural waters to protect scenic beauty, control erosion and reduce effluent and nutrient flow from the shoreland.

a. Removal of Shore Cover

- i. Tree and shrub cutting in a strip paralleling the shoreline and extending thirty-five (35) feet inland from all points along the high water mark, or as determined by the Board of Adjustment, shall be limited in accordance with the following provisions:
- ii. Cutting shall leave sufficient cover to screen cars, dwellings, accessory structures, except boathouses, as seen from the water, to preserve natural beauty and to control erosion.
- iii. Natural shrubbery shall be preserved as far as practicable, and where removed it shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion and preserving natural beauty.
- iv. The removal of natural shrubbery and its replacement shall require the granting of a permit by the Administrative Official. Application for such permit shall be accompanied by a plan showing the work to be accomplished. The granting of such permit shall be conditional upon a contract requiring the petitioner to give to the administrative official, within one (1) year after the date of grant, satisfactory evidence of compliance with such plan or pay for the cost of such compliance by the City.

b. Filling, Grading, Lagooning and Dredging

- i. Filling, grading, lagooning or dredging which would result in substantial detriment to natural waters by reason of erosion, sedimentation, or impairment of fish and aquatic life is prohibited.
- ii. A permit shall be required: For any filling or grading of any area which is within three hundred (300) feet horizontal distance of a natural body of water and which has surface drainage toward the water and in which there is:
 - a) Filling of more than five hundred (500) square feet of any wetland which is contiguous to the water;
 - b) Filling or grading on all slopes of twenty percent (20%) or more. (This does not apply to soil conservation practices such as terraces, runoff diversions and grassed waterways which are used for sediment retardation.)

- c) Where more than ten thousand (10,000) square feet of the bank of a natural body of water is exposed by grading.
 - d) A permit shall be required before constructing, dredging or commencing work on an artificial waterway, canal, ditch, lagoon, pond, lake or similar waterway which is within three hundred (300) feet of the high water mark, or from a point as determined by the Board of Adjustment, of a natural body of water or where the purpose is the ultimate connection with such body of water. This requirement does not apply to soil conservation practices such as terraces, runoff diversions and grassed waterways which are used for sediment retardation.
- iii. A permit is not required for soil conservation practices, approved by the Natural Resources Conservation Service (NRCS), such as terraces, run-off diversions and grassed waterways which are used for sediment retardation.
 - iv. Issuance of the permit may, at the request of the Administrative Official, include review from the Corps of Engineers, US Fish and Wildlife and/or any other applicable Federal, State or Local agencies.

CHAPTER 2.08. “R-3” MANUFACTURED HOME RESIDENTIAL DISTRICT

Section 2.08.01. Intent.

The purpose of the “R-3” Manufactured Home Residential District is to permit the development of a single-family residential manufactured home park located in an appropriate environment. It is the purpose of the “R-3” District to encourage site development in accordance with good planning principles; to prevent detrimental effects to the use or development of adjacent properties or the general neighborhood; and to promote the health, safety and welfare of the present and future inhabitants of the City.

Section 2.08.02. Permitted Uses.

The following uses and structures shall be permitted:

1. Manufactured home park developments.
2. Manufactured home subdivisions.
3. Any permitted use in the “R-2” District.
4. Type II manufactured homes.

Section 2.08.03. Permitted Accessory Uses.

Accessory buildings and uses customarily incidental thereto. No part of any park shall be used for nonresidential purposes, except such uses that are required for the direct servicing and well being of park residents and for the management and maintenance of the park.

Section 2.08.04. Conditional Uses.

The following uses may be permitted as a Conditional Use in the “R-3” Manufactured Home Residential District by the Board of Adjustment, subject to such requirements as the Board deems necessary to protect adjacent property, prevent objectionable or offensive conditions and promote the health, safety and general welfare.

1. Any Conditional Use in the “R-2” District.
2. Commercial storage buildings used exclusively for storage and not for performance of any other services.

Section 2.08.05. Prohibited Uses.

All uses and structures not specifically listed as either a Permitted Use or Conditional Use shall be prohibited in the “R-3” Manufactured Home Residential District.

Section 2.08.06. Manufactured Home Parks Minimum Standards.

Manufactured home parks shall meet the following minimum standards to insure the health, safety and welfare of occupants of dwellings and recreational vehicles:

1. Streets.

Each manufactured home lot shall abut or face a public or private roadway or street, such roadway or street having an all-weather surface of at least thirty (30) feet in width where parking is permitted on both sides, and twenty-six (26) feet in width where parking is restricted to one side. Where private streets are proposed, they shall have a minimum right-of-way of forty (40) feet.

2. Open Space or Buffer Zone.

A landscaped buffer area of ten (10) feet in width shall be provided and maintained around the perimeter of the park, except where walks and drives penetrate the buffer.

3. Lot Area.

Each lot provided for the occupancy of a single manufactured home unit shall be not less than fifty (50) feet in width and have an area of not less than five thousand five hundred (5,500) square feet, and the same shall be defined by markers at each corner.

4. Density.

No park shall be permitted an average net density of manufactured home lots of more than eight (8) units per acre and each park shall provide an area of not less than two (2) acres.

5. Spacing and Yard Requirements.

All manufactured housing units or recreational vehicles will be positioned on the manufactured home space in compliance and accordance with the zoning requirements at the time of establishment of the manufactured home park. Manufactured home parks established after the effective date of this ordinance will comply with the following:

a. Front Yard.

All manufactured homes shall be located at least twenty (20) feet from any road or street. The distance will be measured from the wall of the structure to the street or roadway at the closest point.

b. Side and Rear Yards.

All manufactured homes shall have minimum side yards of six (6) feet and a minimum rear yard of ten (10) feet.

c. Exceptions to Minimum Yard Requirements.

A garage, canopy, or carport may project into a required side or rear yard provided it is located no closer than ten (10) feet to another manufactured home, garage, canopy, carport, or addition thereto, and provided further that the maximum depth be twenty-four (24) feet.

A deck may project into a required side or rear yard provided it is located no closer than four (4) feet to any other structures.

An enclosed vestibule containing not more than forty (40) square feet in area may project into a required yard for a distance not to exceed four (4) feet, but in no event closer than ten (10) feet to another manufactured home, garage, canopy, carport, or addition thereto.

Detached accessory buildings with a projected room area of not more than one hundred and twenty (120) square feet may project into a required side or rear yard provided it is located no closer than four (4) feet to another structure or right-of-way.

d. **Maximum Lot Coverage.**

No manufactured home shall occupy more than twenty-five percent (25%) of the area of the lot on which it is situated.

6. Parking.

Two (2) off-street automobile parking spaces shall be provided for each manufactured home. Such off-street parking spaces shall be set-aside in a location convenient to the occupants of the trailer or camping units and shall have ingress and egress by means of a public way. Where parking areas are provided adjacent to a public street, ingress and egress thereto shall be made accessible only through driveways or openings not exceeding twenty-five (25) feet in width in the curb line of said street.

7. Refuse Collection.

One refuse collection station shall be provided, with a minimum of one (1) two-yard dumpster situated on a concrete pad, screened on four sides, for each twelve (12) families or fractions thereof, conveniently located to serve tenants not more than one hundred fifty (150) feet from any trailer unit served, and to be conveniently located for collection.

8. Recreation Area.

The developer of the manufactured home park may be required to dedicate no less than eight percent (8%) of the gross site area to recreational facilities appropriate to the needs of the occupants. The designated recreation area shall be approved by the Planning Commission.

9. Storm Shelter.

Management shall provide or make arrangements for a suitable storm shelter for residents of the park.

10. On-Site Management.

Each manufactured home park shall provide on-site management by the owner or his representative at all times to supervise the management, repairs, maintenance and janitorial work connected therewith and to see that all provisions of this Chapter are complied with.

11. Water Supply and Distribution System and Sewage Disposal.

Each manufactured home or recreational vehicle shall be connected to the City of Clear Lake's sanitary sewer and water system.

12. Tie Down Requirements.

All recreational vehicles placed in the same location for more than one hundred eighty (180) days and manufactured homes, regardless of location, unless such manufactured homes are securely anchored to a permanent foundation approved by the Administrative Official, shall be anchored to the ground, in accordance with the manufacturer's specifications or as prescribed by the TR-75, issued June 1972 by the U.S. Department of Defense.

13. Maximum Age Limitation.

No manufactured home placed within a manufactured home park within the City limits of Clear Lake may exceed ten (10) years from the date of manufacture.

14. Expansion.

Existing manufactured home parks may be extended to a total area of less than two (2) acres provided the area of expansion complies with all other regulations herein set forth.

15. Building/Moved-in Building Permit Required.

Whenever a manufactured home is moved into a manufactured home park, a permit from the Administrative Official shall be required.

16. Skirting.

All manufactured homes, regardless of location, unless such manufactured homes are securely anchored to a permanent foundation, approved by the Administrative Official, shall be skirted within thirty (30) days of placement.

Section 2.08.07. Application Procedure.

Each application for an "R-3" Manufactured Home Park shall be accompanied by a development plan incorporating the regulations established herein. The plan shall be drawn to scale and indicate the following:

The following requirements pertain to manufactured home parks:

1. Location and topography of the proposed manufactured home park, including adjacent property owners and proximity to Federal and State highways, and County, Township, and City roads/streets.
2. Property lines and square footage of the proposed park.
3. Location and dimensions of all easements and rights-of-way.

4. Proposed general layout, including parking and recreation areas.
5. General street and pedestrian walkway plan.
6. General utility, water, and sewer plan.

Upon approval of the application, the plan becomes part of the permanent record and it shall serve as the basis for the final site plan submission.

Section 2.08.08. Manufactured Housing Subdivisions.

Nothing in this ordinance shall be construed to prohibit subdividing an approved manufactured home park development into individual owner occupied lots. However, any such development shall be required to meet the subdivision regulations of the City of Clear Lake.

Section 2.08.09. Area/Construction Regulations.

Minimum lot area, maximum building height, maximum lot coverage and minimum yard requirements shall be regulated in accordance with the following tables:

	Minimum Lot Area	Minimum Lot Width	Maximum Height	Maximum Percent Lot Coverage
Single Family Residential	6,500 square feet	50'	35'	40%
Two Dwelling Units	3,000 square feet/dwelling unit	50'	35'	40%
Three - Four Dwelling Units	2,500 square feet/dwelling unit	50'	35'	40%
Assisted Living, Nursing and Rest Homes, etc.	2,000 square feet/dwelling unit	60'	35'	40%
Conditional Uses	To be determined by the Board of Adjustment			

	Minimum Front Yard	Minimum Rear Yard*	Minimum Side Yard	
			Party Wall Side	Non-Party Wall Side
Single Family Residential	22'	20'	0'	6'
Two Dwelling Units	22'	20'	0'	6'
Three - Four Dwelling Units	30'	25'	0'	6'
Assisted Living, Nursing and Rest Homes, etc.	50'	25'	0'	30'
Conditional Uses	To be determined by the Board of Adjustment			

Section 2.08.10. Exception to Minimum Side Yard Requirement.

The Board of Adjustment may grant variance to the minimum side yard requirement, provided an appropriate easement is recorded at the Deuel County Register of Deeds ensuring that no structures shall hereafter be constructed within a distance two times the minimum required side yard (twelve (12) feet) on the affected adjacent property.

CHAPTER 2.09. "PUD" PLANNED UNIT DEVELOPMENT DISTRICT

Section 2.09.01. Intent.

To permit great flexibility in the use and design of structures and land in situations where modifications of specific provisions of this ordinance will not be contrary to its intent and purpose or significantly inconsistent with the planning on which it is based and will not be harmful to the neighborhood in which they occur.

Section 2.09.02. Application and Modification Powers.

The provisions of this section may be applied, upon application of the owner, to any area exceeding three (3) acres in size. The owner shall file with the Planning Commission a proposed site plan, a description of the structures to be erected, the other facilities of the project and the land uses involved. In addition, he shall furnish such other information as the Planning Commission may reasonably require. In acting upon the application, the City Council may alter setback requirements, height limits, building size limits, off-street parking regulations, landscaping rules and density and intensity limits. It may also authorize uses not permitted in the district where the lot is located, provided such uses are desirable or convenient for the users of the lot as developed or the immediate neighborhood, and provided that such uses are planned so as to assure that they will not materially alter the existing character of the neighborhood. Where the City Council determines application is consistent with the purpose of this section and with other requirements hereof, it shall enter an order authorizing development and use in accordance with the site plan and description contained in the application, modified as the City Council may require to carry out the intent and purpose of this section and containing any conditions or restrictions which the City Council may consider necessary to carry out the purposes of this ordinance and to protect the public health, safety and welfare. The order shall recite the reasons and findings of fact upon which it is based.

Section 2.09.03. Procedure.

The following procedural and informational requirements shall be followed for Planned Unit Development requests:

1. Planning Commission Review: Applicant shall meet with the Planning Commission on an informal basis at its regular meeting to relate his intent. The Planning Commission will evaluate the consistency of his intent with the comprehensive guide plan. Thereafter, the Planning Commission may refer the application to the City staff or consultants to review materials presented and to discuss the plan proposal, suggest alternatives as necessary, and authorize presentation of concept plan and supportive information.
2. Concept Plan and Supportive Information: Applicant shall prepare the following supportive graphic and written information materials as follows:
 - a. Property description and acreage, identification of owner and developer.
 - b. Existing conditions, area relationships, surrounding property ownership, relationship to guide plan, existing land use, transportation, zoning, utilities, etc.
 - c. Natural features, water, topography, soils, vegetation, etc., and their implications, if any, for development.

- d. Concept plan showing land use areas, land use intensities, acreages, number of units, proposed circulation, open space, recreation and development staging.
- e. Written information describing proposed land use and land use objectives, the type and character of buildings, methods of providing utilities, etc.

3. Final Development Plan:

- a. Applicant shall prepare a final development plan for that part to be rezoned. Required graphic and written information for the final plan is on file at the City office.
- b. Applicant shall prepare the following supportive graphic and written information materials as follows:
 - i. Legal descriptions of all parcels to be rezoned.
 - ii. Detailed site plan showing dimensions of all lots and structures, parking and streets, utilities, common open spaces, proposed setbacks, and grading.
 - iii. Covenants and restrictions, if any, applying to each tract and to open spaces and including the responsibility for the maintenance and operation of common areas and facilities.
 - iv. Density and gross building computations.
 - v. Preliminary architectural drawings for each different building type, except single-family dwellings, showing building elevations, schematic floor plans, unit relationships, activity areas, building materials, etc.
 - vi. Construction and occupancy schedule.
 - vii. Identification of uses proposed. (i.e. commercial/retail, office, single-family residential, multiple family residential, etc.)
 - viii. A description of the nature and character of non-residential developments including a description of waste emissions, activities conducted on the premises, etc.

Section 2.09.04. Final Application – Rezoning.

Applicant shall file a zoning petition, pay fees, and submit all required information for review by the Planning Commission.

Section 2.09.05. Review.

The Planning Commission shall review the final development plan to determine if it conforms to the guide plan and the approved concept plan and shall recommend approval, revision or reapplication, or denial of the final development plan and rezoning before making its recommendation to the City Council. The City Council shall hold public hearings and approve or disapprove the rezoning request.

Section 2.09.06. Final Development Plan.

Requested changes in the final development plan, if the approval has been granted, will require a public hearing and the submission of an amended plan document unless the changes are minor enough to authorize by administrative judgment. Building permits for construction in a planned development shall be issued by the Building Official based on the approved final development plan and the zoning.

CHAPTER 2.10. “C-1” GENERAL COMMERCIAL DISTRICT

Section 2.10.01. Intent.

The intent of the “C-1” General Commercial District is to provide commercial areas for business establishments serving the needs of trade area residents. Permitted uses are intended to create a strong central business district, free from conflicting land uses, which is the focal point of trade area retail sales, personnel, business and professional services, governmental and cultural activities.

Section 2.10.02. Permitted Uses.

The following uses and structures shall be permitted in the “C-1” General Commercial District:

1. Retail and wholesale sales.
2. Finance, insurance and real estate services.
3. Business services excluding any warehousing and storage services.
4. Religious institutions, welfare and charitable services, business associations, professional membership organizations, labor unions and similar labor organizations, and civic, social and fraternal associations.
5. Eating and drinking places.
6. Communication and utility uses.
7. Public buildings and grounds.
8. Personal service establishments.
9. Indoor recreational facilities and gymnasiums.
10. Bed and breakfasts.
11. Theatres, bowling alleys and pool halls.
12. Professional, governmental and education services.
13. Museum
14. Printing and publishing establishments.
15. Parking lot and/or garage.
16. Bakery.
17. Offices.
18. On-premise sign.

Section 2.10.03. Permitted Accessory Uses.

The following accessory uses and structures shall be permitted in the “C-1” General Commercial District:

1. Accessory buildings and uses customarily incidental to permitted uses.

Section 2.10.04. Conditional Uses.

The following uses may be permitted as a Conditional Use in the “C-1” Central Commercial District by the Board of Adjustment, subject to such requirements as the Board deems necessary to protect and promote the health, safety and general welfare:

1. Retail sales of lumber and other building materials (lumberyard), farm equipment, motor vehicles, marine crafts, mobile homes, trailers, feed, farm and garden supplies, fuel.
2. Truck or bus terminal.
3. Bar or tavern.
4. Manufacture or assembly of products and goods.
5. Wholesale merchandising or storage warehouse.
6. Licensed day care center.
7. Multiple-family dwelling.
8. Hotel/motel.
9. Establishments manufacturing a product to be sold at retail on premises to the ultimate consumer.
10. On-Off sale liquor establishment.
11. Automobile filling station.
12. Automobile repair station.
13. Strip malls and shopping centers within a multi-unit commercial/retail structure (see Section 2.09.07).
14. VAWT's (see Section 4.19)
15. Commercial storage.
16. Caretaker or watchman's quarters.

Section 2.10.05. Prohibited Uses.

All uses and structures not specifically listed as either a Permitted Use or Conditional Use shall be prohibited in the “C-1” General Commercial District.

Section 2.10.06. Area/Construction Regulations.

1. Minimum lot area, maximum building height, maximum lot coverage and minimum yard requirements shall be regulated in accordance with the following tables:

	Minimum Lot Area	Minimum Lot Width	Maximum Height	Maximum Percent Lot Coverage
Permitted Uses	10,000 square feet	100'	25'	70%
Conditional Uses	To be determined by the Board of Adjustment			

	Minimum Front Yard*	Minimum Rear Yard*	Minimum Side Yard*
Permitted Uses	30'	20'	20'
Conditional Uses	To be determined by the Board of Adjustment		

2. All commercial buildings/structures shall be constructed on-site. Off-site constructed or moved-in structures may be allowed only as a Conditional Use.

Section 2.10.07. Exception to Minimum Side Yard Requirement.

Strip malls and shopping centers as single units within a multi-unit commercial/retail structure with common elements share a common/party wall the minimum side yard may be reduced to zero (0) feet on the party wall side by the Board of Adjustment.

CHAPTER 2.11. “C-2” HIGHWAY COMMERCIAL DISTRICT

Section 2.11.01. Intent.

The intent of the “C-2” Highway Commercial District is to serve the needs of the highway user and the automobile, and in so doing to establish appropriate locations for highway and automobile-related retail and service establishments which will not cause undue traffic congestion. It is not the intent of this district to encourage the extension or enlargement of strip commercial areas. Further, it is the intent of this district to accommodate those industrial uses able to meet performance standards and commercial uses not compatible with the “C-1” General Commercial District.

Section 2.11.02. Permitted Uses.

The following uses and structures shall be permitted in the “C-2” Highway Commercial District:

1. Horticulture and the raising of field crops.
2. Automobile filling stations.
3. On-premise signs.
4. Utility substations.
5. Wholesale or retail sales of: lumber and other building materials, farm equipment, motor vehicles, marine crafts, mobile homes, trailers, farm and garden supplies, fuel and ice; motor vehicles and automobile equipment; drugs, chemicals, all allied products; dry goods and apparel; groceries and related products; electrical goods, hardware, plumbing and heating equipment and supplies; machinery, equipment and supplies; beer, wine, and distilled alcoholic beverages; paper and paper products; furniture and home furnishings; lumber and construction materials.
6. Offices.
7. Hotel/Motel.
8. Bed and breakfast.
9. Eating and drinking establishments.
10. General farm products, household goods, and refrigerator warehousing and storage.
11. Motor freight terminals, garaging and equipment maintenance.
12. Mortuaries.
13. Off-premise signs.
14. Public buildings.

Section 2.11.03. Permitted Accessory Uses.

The following accessory uses and structures shall be permitted in the “C-2” Highway Commercial District:

1. Accessory buildings and uses customarily incidental to permitted uses.

Section 2.11.04. Conditional Uses.

The following uses may be permitted as Conditional Uses in the “C-2” Highway Commercial District by the Board of Adjustment subject to such requirements as the Board deems necessary to protect and promote the health, safety and general welfare.

1. Food lockers, provided that any slaughtering, killing, eviscerating, skinning, or plucking be done indoors.
2. Commercial Storage.
3. Contractor shops, provided associated storage is screened from view of adjacent property and rights-of-way.
4. Strip malls and shopping centers within a multi-unit commercial/retail structure (see Section 2.10.07).
5. SWECS and VAWT’s (see Section 4.19).
6. Other industrial or commercial uses determined by the Board of Adjustment to be consistent with the intent of this district.

Section 2.11.05. Prohibited Uses.

All uses and structures not specifically listed as either a Permitted Use or Conditional Use shall be prohibited in the “C-1” Highway Commercial District.

Section 2.11.06. Area/Construction Regulations.

1. Minimum lot area, maximum building height, maximum lot coverage and minimum yard requirements shall be regulated in accordance with the following tables:

	Minimum Lot Area	Minimum Lot Width	Maximum Height	Maximum Percent Lot Coverage
Permitted Uses	10,000 square feet	100'	25'	70%
Conditional Uses	To be determined by the Board of Adjustment			

	Minimum Front Yard*	Minimum Rear Yard*	Minimum Side Yard*
Permitted Uses	30'	20'	20'
Conditional Uses	To be determined by the Board of Adjustment		

2. All commercial buildings/structures shall be constructed on-site. Off-site constructed or moved-in structures may be allowed only as a Conditional Use.

Section 2.11.07. Exception to Minimum Side Yard Requirement.

Strip malls and shopping centers as single units within a multi-unit commercial/retail structure with common elements share a common/party wall the minimum side yard may be reduced to zero (0) feet on the party wall side by the Board of Adjustment.

CHAPTER 2.12. "I" INDUSTRIAL DISTRICT

Section 2.12.01. Intent.

The intent of the "I" Industrial District is to accommodate industrial uses meeting performance standards designed to protect nearby non-industrial uses from adverse environmental conditions, and to accommodate certain other business uses.

Section 2.12.02. Permitted Uses.

The following uses and structures shall be permitted in the "I" Industrial District:

1. Horticulture and the raising of field crops.
2. Utility substations.
3. Storage plants, lumberyards, distributing stations and warehouses.
4. Motor freight terminals, garaging and equipment maintenance.
5. Light assembly work, machine shops doing assembling or shaping and light cutting and sampling, provided that there is not outside storage of materials or product.
6. Woodworking shops or plants, provided that there is not outside storage of materials or product.
7. Commercial Storage
8. On-premise sign.

Section 2.12.03. Permitted Accessory Uses.

The following accessory uses and structures shall be permitted in the "I" Industrial District:

1. Caretaker and watchmen quarters.
2. Buildings and structures customarily incidental to permitted uses.

Section 2.12.04. Conditional Uses.

The following uses may be permitted as a Conditional Use in the "I" Industrial District by the Board of Adjustment, subject to such requirements as the Board deems necessary to protect and promote the health, safety and general welfare:

1. Junk or salvage yards, provided that the area is enclosed or screened from public view as required by the Board of Adjustment.
2. Contractor shops and yards.
3. Food manufacturing plants.

4. Grain elevators and feed mills.
5. Automotive body repair.
6. Adult uses, which include but are not necessarily, limited to Adult entertainment facility, adult bookstores, and adult motion picture theaters.
7. SWECS and VAWT's (see Section 4.19)
8. Other industrial or commercial uses determined by the Board of Adjustment to be consistent with the intent of this District that can meet the performance standards listed in Section 2.11.07.

Section 2.12.05. Prohibited Uses.

All uses and structures not specifically listed as either a Permitted Use or Conditional Use shall be prohibited in the "I" Industrial District.

Section 2.12.06. Area/Construction Regulations.

1. Minimum lot area, maximum building height, maximum lot coverage and minimum yard requirements shall be regulated in accordance with the following tables:

	Minimum Lot Area	Minimum Lot Width	Maximum Height	Maximum Percent Lot Coverage
Permitted Uses	20,000 square feet	150'	50'	50%
Conditional Uses	To be determined by the Board of Adjustment			

	Minimum Front Yard	Minimum Rear Yard		Minimum Side Yard	
		Adjacent to Industrial, Ag, or Commercial Districts	Adjacent to Residential Districts	Adjacent to Industrial, Ag, or Commercial Districts	Adjacent to Residential Districts
Permitted Uses	50'	25'	35'	10'	35'
Conditional Uses	To be determined by the Board of Adjustment				

2. **Outdoor Storage/Junk** – All outdoor storage within five hundred (500) feet of a residential zoning district must be completely enclosed in a building or by a solid walled fence at least two (2) feet above the highest point of the stockpile and said fence shall be maintained in safe and good repair.

Storage yards for junk shall be set back a minimum of one hundred (100) feet from any adjoining street line and thirty-five (35) feet from any other property line, and shall be screened by a solid wall at least two (2) feet above the highest stock pile and maintained in

a state of good repair. Further provided, that no storage yard for junk shall be allowed on any lot in an "I" Industrial Zone that is within five hundred (500) feet of a residential zone.

3. **Construction Requirements** – All industrial buildings/structures shall be constructed on-site. Off-site constructed structures or moved-in structures may be allowed only with a Conditional Use Permit.

Section 2.12.07. Performance Standards.

1. **Noise.** All noise shall be muffled so as not to be objectionable due to intermittence, beat frequency or shrillness.
2. **Air Pollution.** State emission standards shall be met by all possible sources of air pollution. In any case, there shall not be discharged from any sources whatsoever such quantities of air contaminants, smoke or detriment, nuisance or annoyance to any considerable number of persons or to the public in general to endanger the comfort, health or safety of any such considerable number of persons or have a natural tendency to cause injury or damage to business, vegetation or property.
3. **Odor.** The emission of odorous matter in such quantities as to be readily detectable at any point along lot lines or to produce a public nuisance or hazard beyond lot lines is prohibited.
4. **Glare, Heat or Radiation.** Every use shall be so operated that there is no emission of heat, glare or radiation visible or discernable beyond the property line.
5. **Vibration.** Every use shall be so operated that ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point on the property line.
6. **Sewage and Liquid Wastes.** No operation shall be carried on which involves the discharge into a sewer, watercourse, river or the ground of liquid wastes of any radioactive nature, or liquid wastes of chemical nature, which are detrimental to normal sewage plant operations or corrosive or damaging to sewer pipes and installations.
7. **Fire Hazard.** All flammable substances involved in any activity or use shall be handled in conformance with the standard of the National Board of Fire Underwriters and any additional regulations that may from time to time be adopted by the City Council.
8. **Physical Appearance.** All operations shall be carried on within an enclosed building except that new or operable equipment may be displayed or stored in the open and waste materials stored in enclosed containers not readily visible from the street.

Section 2.12.08. Screening.

Where any "I" use is adjacent to any Residential Zone, that use (building, parking or storage) shall be appropriately screened from the Residential Use District by planting or fencing, except where planting and/or fencing may be in conflict with Chapter 4.02

CHAPTER 2.13 “CB” CENTRAL BUSINESS OVERLAY DISTRICT

Section 2.13.01. Intent.

The intent of the “CB” Central Business Overlay District is to accommodate mixed-use buildings with neighborhood-serving retail, service, and other uses on the ground floor and residential units above the nonresidential space by utilizing pedestrian-oriented, storefront-style shopping streets thereby promoting the health and well-being of residents by encouraging physical activity, alternative transportation, and greater social interaction.

Section 2.13.02. Establishment/Delineation/Regulation of the “CB” Central Business Overlay District.

Boundaries for the “CB” Central Business Overlay District are shown on the “CB” Central Business Overlay District Map as referenced in Section 1.02.01. The “CB” Central Business Overlay District Map is hereby adopted by reference as part of these regulations as if the map was fully described herein.

Any proposed project within the “CB” Central Business Overlay District which is denied by the Building Official or Planning Commission may be appealed to the Board of Adjustment.

Section 2.13.03 Applicability.

The provisions of this Chapter shall apply to any project on a lot or parcel in the “CB” Central Business Overlay District as described herein.

The “CB” Central Business Overlay District may be expanded to include other areas as recommended by the Comprehensive Land Use Plan of the City of Clear Lake or other ancillary studies by recommendation of the Planning Commission and action of the City Commission.

Where the provisions of Chapter 2.12 conflict with other provisions of this Title, the provisions of Chapter 2.12 shall prevail.

Standards, uses, and regulations not addressed in Chapter 2.12 shall be regulated as defined elsewhere in this Title.

Section 2.13.04. Permitted Uses.

The following uses and structures shall be permitted in the “CB” Central Business Overlay District:

1. Permitted Uses in the “CB” Central Business Overlay District include all Permitted Uses in the underlying district which each respective lot is located.
2. Apartments and Multi-family dwelling units within the same structure as another listed permitted or conditional use which are not directly entered from the ground floor.

Section 2.13.04. Permitted Accessory Uses.

The following accessory uses and structures shall be permitted in the “CB” Central Business Overlay District:

- 1. Accessory uses and structures customarily incidental to permitted uses.

Section 2.13.05. Conditional Uses.

The following uses may be permitted as a Conditional Use in the “CB” Central Business Overlay District by the Board of Adjustment, subject to such requirements as the Board deems necessary to protect and promote the health, safety and general welfare:

- 1. Conditional Uses in the “CB” Central Business Overlay District include all Conditional Uses in the underlying district which each respective lot is located.

Section 2.13.06. Area/Construction Regulations.

Minimum lot area, maximum building height, maximum lot coverage and minimum yard requirements in the “CB” Central Business Overlay District shall be regulated in accordance with the following tables:

	Minimum Lot Area	Minimum Lot Width	Maximum Height
Commercial Uses	<i>no minimum</i>	<i>none</i>	45'
Mixed Commercial and Residential Uses	<i>no minimum</i>	<i>none</i>	45'
Residential Uses	10,000 square feet	<i>none</i>	45'
Conditional Uses	To be determined by the Board of Adjustment		

	Minimum Front Yard	Minimum Rear Yard	Minimum Side Yard
Mixed Commercial and Residential Uses	<i>none</i>	10'	<i>none</i>
Other Permitted Uses	<i>none</i>	<i>none</i>	<i>none</i>
Conditional Uses	To be determined by the Board of Adjustment		

Section 2.13.07 Performance Standards.

- 1. Because of the range of land uses permitted within the in the “CB” Central Business Overlay District, other design standards may be considered for Conditional Uses, major amendments, or final development plans.
- 2. Any additional standards shall be designed to eliminate or offset potential negative impacts to the landscape of this district which may result from development.

CHAPTER 2.14 “WS” WATER SOURCE PROTECTION OVERLAY DISTRICT

Section 2.14.01 Description.

The Water Source Protection Overlay District is an overlay district consisting of two separate protection areas, known as The Water Source Protection Overlay District map of the City of Clear Lake. The official map shall be on file at the City Office.

Section 2.14.02 Intent.

The City of Clear Lake recognizes that aquifer systems and associated drainage basins are its primary source of high quality, potable drinking water and must be protected from leaks and spills or threatened leaks or spills of contaminants in such quantities as may result in adverse effects to water sources by establishing a comprehensive water source protection plan. Pursuant to the authority provided by South Dakota statute, and in interest of securing the public health, safety, and general welfare, the City of Clear Lake desires to preserve the quality and quantity of the City’s water resources, and to ensure a safer and adequate water supply for present and future generations by preserving and protecting water resources currently in use, and those having a potential for future use as a public water supply, while at the same time continuing to foster and promote reasonable and environmentally responsible economic growth.

Section 2.14.03 Water Source Protection Overlay District Use Regulations.

Any activity on, or use of, any land which lies within the Water Source Protection Overlay District shall conform to the following regulations and procedures. The purpose of these regulations is to maintain the natural quality of the water resources and to that end, to require the use of all available practical methods of preventing and controlling water pollution from sewage, industrial wastes, and other contaminants.

1. Definitions

- a. Zone A - Zone A, the wellhead protection area, is the mapped zone of contribution around all public water supply wells or wellfields in shallow/surficial aquifers and includes land upgradient from the well or wellfield to the ten year time of travel boundary. - Zone A is identified on the Water Source Protection Overlay District Map.
- b. Zone B - Zone B is the remainder of the mapped shallow/surficial aquifer in the County not included in Zone A. Zone B also includes any delineated lands adjacent to Zone A not underlain by the shallow aquifer but with sufficient slope that contaminated surface water could flow directly onto Zone A. Zone B is identified on the Water Source Protection Overlay District Map.

2. Permitted Uses in Zone A and Zone B

USE	ZONE A/ZONE B
Residential, Industrial, Commercial, & Agricultural.	The same as underlying zoning district uses shall be allowed.

3. Prohibited Uses in Zone A and Zone B

- a. Sanitary land fills, Septic systems, commercial feedlots, and salvage yards shall not be permitted in the Agricultural Zone.
- b. Septic Systems.

4. Sanitary Sewer Connection

All areas within the Water Source Protection Overlay District which are annexed to the City after the effective date of this ordinance shall be connected to the Clear Lake sanitary sewer system at the time of development. If surface features or other conditions prohibit connection to the Clear Lake sanitary sewer system, a closed waste system, such as a holding tank or a system just as effective, as determined by the Administrative Official or his/her authorized representative, shall be installed.

5. Injection Wells

No use shall be allowed in any zone which utilizes a surface impoundment or any underground injection well.

6. Review Procedure

Permits for new uses or changes in existing uses shall be required to meet all other City requirements including, but not limited to, requirements for underground storage tanks, sewer discharge permits, and storage of contaminants or hazardous materials. These new uses or changes in use, as well as any new developments, or any changes from current uses which are within the Water Source Protection Overlay District, will be reviewed by the Administrative Official, except for residential uses which are connected to the Clear Lake sanitary sewer system.

This review process shall be completed prior to the issuance of a building permit. Issuance of the permit does not relieve the applicant of compliance with all local, state and federal laws. The review by the Administrative Official shall involve an analysis of each proposal, including, but not limited to:

- a. Description of the proposed activity, use, or development, including information and technical data and complete blueprints.
- b. The quality, quantity, concentration, physical, chemical, or infectious characteristics of contaminants or hazardous material to be stored or used on the property or premises.
- c. Provide complete description, plans, and specifications of primary and secondary containment facilities including provisions for leak/spill detection and monitoring.
- d. The adverse effects of contaminants or hazardous materials, including the probability that any leak or spill would contaminate groundwater.
- e. Submission of a completed contingency plan for waste spills.
- f. Compliance with other City, State, or Federal regulations.

g. Any other information as may be deemed necessary by the Administrative Official.

7. Rejection and Appeal.

The Administrative Official may deny any proposed uses or developments which have the potential to pollute water sources in the overlay district. Decisions of the Administrative Official may be appealed to the Board of Adjustment.

ARTICLE III ADMINISTRATION

CHAPTER 3.01. GENERAL

Section 3.01.01. Permits Required.

No building or other structure shall be erected, moved, added to, or structurally altered without a permit issued by the Administrative Official. The Administrative Official except in conformity with the provisions of this Ordinance shall issue no permit, unless he received a written order from the Board of Adjustment in the form of an administrative review, under conditional use, or variance as provided by this Ordinance.

Section 3.01.02. Applications.

All applications for permits shall be accompanied by a site plan drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of the buildings already existing, if any; and the location and dimensions of the proposed building or alteration. The application shall include such other information as lawfully may be required by the Administrative Official, including legal description, existing or proposed buildings or alterations; existing or proposed uses of the building and land; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformity with, and provide for the enforcement of, this Ordinance.

Section 3.01.03. Fee Schedule.

The City Council shall by resolution establish a schedule of fees, charges, and expense and a collection procedure for building permits, conditional use permits, variances, amendments, appeals, and other matters pertaining to this Ordinance. The schedule of fees may be altered or amended only by the City Council.

The current fee schedule shall be available from the Administrative Official. All fees shall be the property of the City and shall be paid over to the City Finance Officer for credit to the General Fund of the City, which under no condition shall be refunded. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

Section 3.01.04. Issuance of Permits.

Permits issued on the basis of plans and applications approved by the Administrative Official authorize only the use, arrangement, and construction set forth in such approved plans and applications, and other use, arrangement, or construction at variance with that authorized shall be deemed violation of this Ordinance, and punishable as provided by Section 1.02.02 of this Code.

Section 3.01.05. Expiration of Use Permit.

If the work desired in any use permit has not begun within ninety (90) days from the date of issuance thereof, said permit shall expire; it shall be canceled by the Administrative Official, and written notice thereof shall be given to the persons affected.

If the work described in any use permit has not been substantially completed within one (1) year of the date of issuance thereof, said permit shall expire and be cancelled by the Administrative Official, and written notice thereof shall be given to the persons affected, together with notice that further work as described in the canceled permit shall not proceed unless and until a new permit has been obtained.

CHAPTER 3.02. ADMINISTRATIVE OFFICIAL

Section 3.02.01. Establishment and Purpose.

The position of Administrative Official is hereby established for the City of Clear Lake. The City Building Inspector shall serve as Administrative Official. Further, he/she may be provided with the assistance of such other persons as the City Council may direct. The Administrative Official shall administer and enforce this Ordinance. It is the intent of this Ordinance that questions of interpretation and enforcement shall be first presented to the Administrative Official and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Administrative Official.

Section 3.02.02. Duties.

The powers and duties of the Administrative Official shall be as follows:

1. Issue all building permits and make and maintain records thereof.
2. Conduct inspections of buildings, structures, and the use of land to determine compliance with this Ordinance.
3. Notify in writing persons responsible for violations, indicating the nature of the violation and ordering action necessary to correct.
4. Order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions; alterations or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions.
5. Revoke any permit, which was unlawfully issued, or any permit wherein defective work has been performed, and when such work has not been corrected within ninety (90) days of notification.
6. Maintain permanent and current records of this regulation, including, but not limited to, all maps, amendments, variances, appeals, and applications.
7. Provide public information relative to all matters arising out of this Ordinance.

8. Forward to the Planning Commission all applications for amendments to this Ordinance.
9. Forward to the Board of Adjustment, applications for appeals, variances, or other matters on which the Board of Adjustment is required to pass under this Ordinance.
10. Provide a monthly report to the City Council of building permits issued and denied.
11. Initiate, direct, and review, from time to time, a study of the provisions of this Ordinance, and to make such reports available to the Planning Commission. The Administrative Official shall receive applications for Building Permits, Conditional Uses, Variances, and Zoning Amendments.

For building permits, the Administrative Official shall approve the application only in accordance with the provisions of the Ordinance.

For Conditional Uses and Variances, the Administrative Official shall review the application, and shall make a recommendation to the Board of Adjustment to either approve or not approve said application.

For Zoning Amendments, the Administrative Official shall review the application, and shall make comments regarding said application to the Planning Commission and City Council.

3.02.03. Powers.

If the Administrative official shall find that any of the provisions of this Ordinance are being violated, he/she shall notify in writing the persons responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He/she shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions.

CHAPTER 3.03. PLANNING COMMISSION

Section 3.03.01. Planning Commission Created.

There is hereby created a Planning Commission for the City of Clear Lake, South Dakota and for land within three (3) miles of its corporate limits.

Section 3.03.02. Membership of the Planning Commission.

The City Planning Commission shall consist of five (5) members appointed by the Mayor subject to the approval of the City Council. The members may be resident electors of the City qualified by knowledge or experience to act in matters pertaining to the development and administration of the Comprehensive Land Use Plan for the City of Clear Lake. The Building Official and Finance Officer shall be ex officio members without a right to vote.

Section 3.03.03. Terms of Members.

The terms of each of the appointed members of the City Planning Commission shall be for three (3) years except that when the commission is first appointed, three (3) members shall be appointed for two (2) years, and the balance of the members shall be appointed for three (3) years. Thereafter, appointments of each member shall be for terms of three (3) years so that there will be an overlapping of tenures.

Section 3.03.04. Compensation.

All members of the Planning Commission shall be compensated as established by resolution.

Section 3.03.05. Organizations, Rules, Staff and Finances.

Such Planning Commission shall elect its chairman from among its members for a term of one year with eligibility for re-election, and may fill such other of its offices as it may create in a manner prescribed by the rules of such Commission. The Commission shall hold at least one regular meeting each month and shall adopt rules for transaction of its business and keep a record of its resolutions transactions, findings and determinations which shall be a public record. The Planning Commission may appoint such employees as it may deem necessary for its work whose appointment, promotion, demotion and removal shall be subject to the same provisions of law, including Civil Service Regulations as govern other corresponding civil employees of the municipality. The Commission may also contract with planners, engineers, architects and other consultants for such services as it may require. The expenditures of the Commission, exclusive of those made from funds received by it, shall be within the amount appropriated for the purpose by the City Council which shall provide the funds, equipment and accommodations necessary for the commission's work.

CHAPTER 3.04. BOARD OF ADJUSTMENT

3.04.01. Establishment.

A Board of Adjustment is hereby established, which shall consist of the Mayor and members of the City Council as provided for in the provisions of Chapter 11-4, South Dakota Codified Laws and Amendments.

The City Council shall appoint two (2) alternate members to the Board of Adjustment. If a City Council member acting as a Board of Adjustment member is unable to attend a meeting or chooses to abstain from acting on a specific item, the first alternate, or second alternate, in turn, shall serve in the member's place.

Section 3.04.02. Procedures for Meetings.

The Board of Adjustment shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this Ordinance. The Mayor shall serve as Chairman of the Board of Adjustment. Meetings shall be held at the call of the chairman and at such other times as the Board of Adjustment may determine. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.

The Board of Adjustment shall keep minutes of its meetings and proceedings, showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall

keep records of its examinations and other official action, all of which shall be a public record and be immediately filed in the office of the Board of Adjustment.

Section 3.04.03. Hearings; Appeals; Notice.

Appeals to the Board of Adjustment concerning interpretation or administration of this Ordinance may be taken by any person aggrieved or by any officer of the governing body of the City affected by any decision of the Administrative Official. Such appeals shall be taken within a reasonable time, not to exceed sixty (60) days of such lesser period as may be provided by the rules of the Board of Adjustment, by filing with the Administrative Official and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The Administrative Official shall forthwith transmit to the Board all papers constituting the record upon which the action appealed was taken from.

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

Section 3.04.04. Stay of Proceedings.

An appeal stays all proceedings in furtherance of the action appealed from unless the Administrative Official from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal is filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause an imminent peril to life and property. In such case proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application, on notice to the Administrative Official from whom the appeal is taken and on due cause shown.

Section 3.04.05. Powers and Duties of Board of Adjustment.

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

1. Administrative Review:

- A. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Administration Official in the enforcement of this Ordinance.
- B. To hear and decide appeals to decisions made by the Administrative Official regarding Zoning Permits.

2. Conditional Uses:

To hear and decide only such conditional uses as the Board of Adjustment is specifically authorized to pass on by the terms of this Ordinance; to decide such questions as are involved in determining whether conditional uses should be granted; and to grant conditional uses with such conditions and safeguards as are appropriate under this Ordinance, or to deny conditional uses when not in harmony with the purpose and intent of this Ordinance.

3. Variances:

To hear requests for variances from this Ordinance in instances where strict enforcement would cause unnecessary hardship, and to authorize upon appeal in specific cases such variance from the terms of this Ordinance as which will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship.

CHAPTER 3.05. PROCEDURES FOR APPLICATIONS

Section 3.05.01. Building Permits.

No new development, change of use, moving in/moving out of structures, demolition, or other action which may be regulated by the provisions of this Ordinance including use, height, number of occupants, lot area, off street parking or yard requirements, shall occur without a building permit issued by the Administrative Official. Building permits issued on the basis of plans and applications approved by the Administrative Official authorize only the use, arrangement, or construction set forth in such approved plans and specifications. Any use, arrangement, or construction at variance without authorization shall be deemed a violation of this regulation and shall be punishable as provided by this regulation. The failure to obtain the necessary building permit shall be punishable under this regulation.

1. The landowner requesting the Building Permit shall complete an application for a building permit, accompanied with the appropriate fee, available from the Administration Official. Completed applications shall be returned to the Administrative Official for review. To be considered complete, the application form shall be accompanied by the following additional items:
 - A. Applications for a site shall accompany building permits plan drawn to scale with the following information indicated in order to determine compliance with this Ordinance.
 - B. A site plan, drawn to scale, showing the exact size, shape, and dimensions of the lot to be built upon, the exact size and location on the lot of all existing buildings and structures, and the exact size and location on the lot of the structure or building proposed to be repaired, altered, erected, or moved, and the size, arrangement, number of parking stalls, movement of vehicles and ingress and egress drives for all off-street parking and loading facilities.
 - C. A description of the manner of construction of the proposed building, the material to be used and plans of plumbing and other items as provided in the preceding section and if required by the Building Inspector, shall furnish him with regular plans and specifications of said building
 - D. The location of the said lot with respect to existing rights-of-way and adjacent lots.
 - E. A letter of certification stating that the lot to be built upon has been accurately surveyed. The Administrative Official may waive this requirement in the event lot markers (pins) have been located.

- F. Any other information which the Administrative Official may deem necessary for consideration in enforcing the provisions of this Ordinance.
 - G. The Administrative Official in cases of permits to alter the interior of any existing structure may waive any of the above requirements.
2. One copy of the application shall be returned to the applicant, after the Administrative Official has marked such copy as either approved or disapproved, and attested to the same by signing said copy of the plans. Then Administrative Official for City records shall retain one copy of the application, similarly marked.
 3. The Administrative Official shall then, if the applicant is approved, issue a signed building permit. If the Administrative Official determines the proposed action would not be in compliance with the provisions of these regulations, a building permit may not be issued, and the applicant may then appeal the action of the Administrative Official to the Board of Adjustment.
 4. Building permits shall be posted in a conspicuous place upon the premises and visible from a public right-of-way at all times from the beginning until completion of such construction, alteration, or repair.
 5. With application for a building permit, the site must be clearly staked out and/or the Administrative Official will examine plans that clearly indicate the structure to be erected or remodeled, or alterations of the exiting structure.
 6. The Administrative Official shall provide a monthly report to the City Council of building permits issued and denied.

Section 3.05.02. Conditional Uses

Conditional uses are allowed for certain uses in some zoning districts. Uses not listed within the individual zoning districts as eligible for a Conditional Use Permit shall not, in any circumstances, be granted a Conditional Use Permit.

The following procedure for requesting a Conditional Use Permit shall be followed:

1. The Board of Adjustment shall follow the following procedure in considering the recommendation of the Administrative Official. A Conditional Use Permit shall not be granted by the Board of Adjustment unless and until:
 - A. The landowner requesting the Conditional Use Permit shall complete an application for a Conditional Use Permit, available from the Administrative Official or Finance Officer. Any required attachments and fees as in Section 3.01.03 shall further accompany the application. The written application for a conditional use shall indicate the section of this Ordinance under which the conditional use is sought and stating the grounds on which it is requested; Completed applications shall be returned to the Administrative Official or Finance Officer for review. To be considered by the Board of Adjustment, the application form shall be completed. If any of the information required by Section 3.05.01 has changed since the original Building Permit application, the revised, update or corrected information shall accompany the application for a Conditional Use Permit.

- B. The Administrative Official shall review the application, and shall make a recommendation to the Board of Adjustment to either approve or not approve said application. The Administrative Official's recommendation shall include a summary of the application, and reasons and justification for either approval of or disapproval of the application.
 - C. The Finance Officer shall set the date, time and place for a public hearing to be held by the Board of Adjustment. The applicant shall notify the adjacent landowners (excluding streets and alley) by certified mail at his or her expense, at least one week before the public hearing. The Finance Officer shall publish notice of the public hearing not less than ten (10) days prior to the public hearing in a newspaper of general circulation in the area affected by the proposed Conditional Use Permit.
 - D. A public hearing shall be held. Any party may appear in person, or by agent or attorney;
 - E. The Board of Adjustment shall rule that it is empowered under the section of this ordinance described in the application to grant the conditional use, and that the granting of the conditional use will not adversely affect the public interest; and
 - F. Before any conditional use shall be issued, the Board of Adjustment shall make a written finding certifying compliance with the specific rules governing individual conditional uses and that satisfactory provision and arrangement has been made concerning the following, where applicable:
 - i. Utilities, refuse, and service areas, with reference to locations, availability, and compatibility.
 - ii. Screening and buffering with reference to type, dimensions, and character.
 - iii. Required yards and other open space.
 - iv. General compatibility with adjacent properties and other property in the district.
 - v. Entrance and exit to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.
 - vi. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the District.
2. In order to preserve the intent of this Ordinance and to protect the public interest, the Board of Adjustment may attach conditions to a Conditional Use Permit. A Conditional Use Permit shall remain valid only as long as the terms and conditions of the Conditional Use Permit, as attached by the Board of Adjustment are complied with.
3. Approval of any application for a Conditional Use Permit shall be by a two-thirds (2/3) majority (5 votes) of all members of the Board of Adjustment.

Section 3.05.03. Variances.

Variances are designed to allow some flexibility in the Zoning Regulations, in cases where the exceptional shape of a parcel of land, in cases where use of a property is overwhelmingly affected by exceptional topographic conditions, or any other extraordinary situation or condition of such a parcel of land. Variances are to be approved only when a property owner demonstrates that the provisions of all or part of this Zoning Regulations present an undue hardship on such property owner's use of such parcel land. A variance shall include a description of the specific regulatory item or items in this Zoning Regulations which are found to produce, said undue hardship. Variances shall only be granted when the Board of Adjustments finds that such relief from this Zoning Regulations will be neither detrimental to the public good nor in conflict with the intent of this Zoning Regulations.

The following procedure for requesting a Variance shall be followed:

1. The Board of Adjustment shall follow the following procedure in considering the recommendation of the Administrative Official. A variance from the terms of this Ordinance shall not be granted by the Board of Adjustment unless and until:
 - A. An application for Variance, available from the Administrative Official or Finance Officer, shall be completed by the landowner requesting the variance and shall be accompanied by any required attachments and fees as in Section 3.01.03. The written application for a variance shall indicate the section of this Ordinance under which the variance is sought and stating the grounds for which it is requested. Completed applications shall be returned to the Administrative Official or Finance Officer for review. To be considered by the Board of Adjustment, the application form shall be completed. If any of the information required by Section 3.05.01 has changed since the original Building Permit application, the revised, updated or corrected information shall accompany the application for a variance.
 - B. The Administrative Official shall review the application, and shall make a recommendation to the Board of Adjustment to either approve or not approve said application. The Administrative Official's recommendation shall include a summary of the application, and reasons and justification for either approval or disapproval of the application.
 - C. The Finance Officer shall set the date, time and place for a public hearing to be held by the Board of Adjustment. The applicant shall notify the adjacent landowners (excluding streets and alley) by certified mail at his or her expense, at least one week before the public hearing. The Finance Officer shall publish notice of the public hearing not less than ten (10) days prior to the public hearing in a newspaper of general circulation in the area affected by the proposed variance.
 - D. A public hearing shall be held. Any party may appear in person, or by agent or attorney.
 - E. The Board of Adjustment shall follow the following procedure in considering the recommendation of the Administrative Official. A variance from the terms of this Ordinance shall not be granted by the Board of Adjustments unless and until:
 - i. A written application for a variance is submitted demonstrating:

- ii. That special conditions and circumstances exist which are peculiar to the land, structure or building involved, and which are not applicable to other land, structures, or buildings in the same district;
 - iii. That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance;
 - iv. That the special conditions and circumstances do not result from the actions of the applicant;
 - v. That granting the variance request will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district; and
 - vi. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.
2. The Board of Adjustment shall make findings that the requirements of Section 3.05.02.1.e above have been met by the applicant for a variance;
 3. The Board of Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of land, building, or structure; and
 4. The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
 5. Approval of any variance shall be by a two-thirds (2/3) majority (5 votes) of all members of the Board of Adjustment.
 6. In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and punishable under Chapter 1.02, Section 1.02.02 of this Code.
 7. Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.

Section 3.05.04. Board has Powers of Administrative Official on Appeals; Reversing Decision of Administrative Official.

1. It is the intent of this Ordinance that all questions of interpretation and enforcement shall be first presented to the Administrative Official, and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Administrative Official.

2. In exercising the above-mentioned powers, the Board of Adjustment may, so long as such action is in conformity with the terms of this Ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have the powers of the Administrative Official from whom the appeal is taken.
3. The concurring vote of two-thirds (2/3) majority (5 votes) of all members of the Board of Adjustment shall be necessary 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 it is required to pass under this Ordinance, or to effect any variation in the application of this Ordinance.

Section 3.05.05. Appeals:

Any person(s) or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment, or any person(s) may present to a court of record a petition duly verified, setting forth that the decision is illegal, in whole or in part, specifying the grounds of the illegality. The petition shall be presented to the court within thirty (30) days after the filing of the decision in the office of the Finance Officer.

Section 3.05.06. Zoning Amendments.

The regulations, restrictions and boundaries set forth in this ordinance may from time to time be amended, supplemented, changed, or repealed, provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Unless otherwise provided for in these Zoning Regulations, any change in these Zoning Regulations shall require City Council approval of an ordinance describing said changes. The City Council may not consider said ordinance until the Planning Commission has delivered a recommendation to either approve or not approve said ordinance.

The following procedure for requesting a Zoning Amendment shall be followed:

1. An Application for Amendment, available from the Administrative Official or Finance Officer, shall be completed by the landowner or other person(s) requesting the Amendment. Completed applications shall be returned to the Administrative Official or Finance Officer for review. To be considered by the Planning Commission and City Council, the application form shall be completed and shall be accompanied by the following items:
 - A. Any required attachments and City fees in Section 3.01.03; and
 - B. Any additional information, as requested by the Administrative Official, as lawfully may be required to determine conformance with and provide for the enforcement of this ordinance.
 - C. The Administrative Official shall review the application and shall forward a summary of the application, and his/her comments regarding said application, to the Planning Commission for their review.

- D. The Administrative Official shall set the date, time and place for a joint public hearing to be held by the Planning Commission and City Council. The Finance Officer shall notify the landowner/applicant by mail at least one (1) week before the public hearing, The Finance Officer shall also publish notice of the public hearing in a newspaper of general circulation in the area affected by the proposed Amendment; such notice shall be published not less than ten (10) days prior to the public hearing. If the proposed amendment will change the boundaries of a zoning district, the applicant shall notify all adjoining property owners, excluding streets and alleys, of the proposed boundary change, by Registered or Certified Mail at his or her expense at least one (1) week before the public hearing.
- E. The applicant shall return receipts confirming the above described notice has been sent. The public hearing shall not be held until the receipts are received.
- F. The public hearing shall be held. Any person may appear in person, or by agent or attorney. Minutes of the public hearing shall be recorded and kept in the records of the Planning Commission.
- G. The Planning Commission shall either recommend or not recommend approval of the amendment to the City Council.
- H. The City Council shall either approve or not approve the ordinance describing the proposed changes to these Zoning Regulations, in accordance with standard procedures for reading, approval, publication and effective date.
- I. When the City Council approves a proposed amendment affecting the zoning classification of property, affected property owners may file a written protest to stop such an amendment from taking effect. If the protest meets the following standard, such amendment shall not become effective unless the amendment is approved by two-thirds of the City Council.

Protest Standard: The protest shall be signed by at least 40% of the owners of equity in the parcels in the area affected by the amendment, and the parcels or parts of parcels within two hundred fifty (250) feet of the area affected by the amendment.

Section 3.05.07. Reapplication.

No application requesting a variance, conditional use, or zoning ordinance amendment or district classification change on any property whose application includes any such property either entirely or substantially the same as that which has been denied by the Board, shall again be considered by the Planning Commission or Board of Adjustment before the expiration of six (6) months from the date of the final action of the Planning Commission or Board of Adjustment.

**ARTICLE IV
SUPPLEMENTAL REGULATIONS**

CHAPTER 4.01. VISIBILITY AT INTERSECTIONS.

On any corner lot in any zoning district, no planting or obstruction to vision between the range of three (3) and eight (8) feet in height measured from the center line of the road shall be placed or maintained within the triangular area formed by the intersection road right-of-way lines and a straight line connecting points on said road right-of-way line each of which is fifty (50) feet distance from the point of intersection (Clear View Triangle).

CHAPTER 4.02. FENCES.

Section 4.02.01. Construction Limitations.

1. Notwithstanding other provisions of this ordinance, fences, walls, and hedges with a maximum height of not more than seven (7) feet high, may be erected on any part of a lot other than in the required front yard which shall be limited to a height of three (3) feet. **EXCEPTION:** The Board of Adjustment may allow fences placed within the required front yard, which are not more than thirty (30) percent solid to be constructed up to four (4) feet in height.
2. Fences, walls, and hedges which are more than thirty (30) percent solid shall abide by Chapter 4.01.
3. No person shall hereafter construct, erect or maintain or cause to be constructed, erected or maintained in the City of Clear Lake corporate limits any fences of any character or material closer than six (6) inches to the sidewalk or property line. Exception: A fence/wall/hedge may be placed on the property line provided the fence/wall/hedge is shared between property owners and agreement providing for the maintenance of said fence/wall/hedge is recorded at the Register of Deeds.
4. Approved fencing materials include stone, brick, wood, vinyl, and chain link. The City further requires fencing materials to be “new” - used for first time installation. Individuals wishing to utilize “used” – not first time installation fencing materials shall require Board of Adjustment approval. No electric or barbed wire shall be used in the construction of any fences within the R-1 Residential District, R-3 Manufactured Homes Residential District, C-1 Community Commercial District, C-2 Highway Commercial District, or on the property lines separating commercial or industrial zoned property with residentially zoned property. Except that barbed wire may be used in connection with a security fence when the barbed wire is at least six (6) feet from the ground.
5. Hedges or other plantings which create a fence effect are subject to the same regulations as fences.
6. Fences that are adjacent to alleys shall be set back ten (10) feet from the street/boulevard right-of-way.

7. That side of the fence considered being the face (facing as applied to fence post) should face abutting property.

CHAPTER 4.03. ACCESSORY BUILDINGS.

1. Accessory uses must be subordinate to principal use.
2. No accessory use shall be permitted in any district unless such use is specifically authorized by this Ordinance. No accessory use shall be deemed to be authorized by this Ordinance unless such use is in fact subordinate to and on the same zoning lot with the principal use in conjunction with which it is maintained.
3. No accessory building which is attached to or within (ten) 10 feet of a principal structure shall be erected in any required yard. Exceptions:
 - A. No separate accessory building shall be erected within eight (8) feet of any side or rear lot line, except that when a garage is entered directly from an alley it shall not be located closer than twenty (20) feet to the alley line.
 - B. Accessory buildings may be located in a rear yard, but may not occupy more than thirty percent (30%) of a rear yard.
4. No separate accessory building shall be erected within five (5) feet of any other building.
5. No accessory building may be used for residential dwelling purposes at any time.
6. Residential Districts.

Accessory uses shall be permitted for the principal permitted uses and conditional uses of the residential districts only in accordance with the provisions of the following table hereby adopted by reference and declared to be part of this Ordinance.

7. Commercial and Industrial Districts.

In any commercial or industrial district, any accessory use customarily incident to the principal permitted use or conditional use shall be permitted, except those uses specifically prohibited in the district.

Permitted uses:

Principal Use	Permitted Accessory Uses
<p>Single-family dwellings; duplexes; townhouses and multiple-family dwellings; nursery schools and Day care centers.</p> <p>Note: Siding materials requirements may receive a variance if consent of all adjacent landowners is obtained.</p>	<ol style="list-style-type: none"> 1. Private garages. <ol style="list-style-type: none"> i. Attached garages shall be limited to maximum dimensions of thirty (30) feet by forty (40) feet and conform to the design of the house. ii. Unattached garages shall be limited to maximum sidewalls of fourteen (14) feet; maximum dimensions of thirty (30) feet by forty (40) feet; and a maximum of 4/12 roof pitch or to conform to the design of the house. iii. Unattached garages shall have siding material of a type customarily used on site-constructed residence. Comparable to dwelling and be color coordinated to dwelling. Exception: the Board of Adjustment may allow steel panel siding, not corrugated galvanized steel) to be used if consent of all adjacent landowners is obtained. 2. Buildings or structures for customary residential storage-purposes not over twelve (12) feet in height and not exceeding two hundred (200) square feet in gross floor area. 3. Readily moveable sports, recreation, or outdoor cooking equipment. 4. Permanent sports or recreational structures or facilities, such as tennis courts, swimming pools (with an approved security fence), barbeque pits, and similar improvements provided a site plan for such facility is approved. 5. Home occupations but only as defined herein. 6. Non-commercial greenhouses provided that greenhouses over 100 square feet in floor area must have an approved site plan. 7. Off-street parking and storage of vehicles, but only as provided in Chapter 4.05 of this Ordinance.
Churches, Convents and Monasteries	<ol style="list-style-type: none"> 1. All customarily incidental uses reasonably necessary to allow the free exercise of religion, but not to include commercial use.
All conditional uses	<ol style="list-style-type: none"> 1. All customarily incidental uses reasonably necessary to promote the primary purposes of the principal use, provided that such use must be specifically authorized by the Board of Adjustment for the principal use
All other items	<ol style="list-style-type: none"> 1. No accessory uses permitted.

CHAPTER 4.04. SIGNS AND OUTDOOR ADVERTISING.

Section 4.04.01. On – and Off –Site Signs.

1. No private sign shall be erected or maintained which:
 - A. Creates a hazard due to collapse, fire, collision, decay or abandonment; or
 - B. Creates traffic hazards, by either:
 - i. Confusing or distracting motorists, or
 - ii. Impairing the driver’s ability to see pedestrians, obstacles or other vehicles, or

- iii. Impairing the driver's ability to see and interpret any official traffic sign, signal or device; or
 - iv. Creates a nuisance to persons using a public right-of-way; or
 - v. Constitutes a nuisance to occupancy of adjacent and contiguous property by its brightness, size, height, or movement.
2. Signs in all zoning districts, where permitted, shall be subject to the following provisions:
- A. Wall signs may be located anywhere on the wall of a building.
 - B. Freestanding signs shall not project over public property.
 - C. Freestanding signs shall not be erected adjacent to a corner of two intersecting streets, unless such signs are constructed to not obstruct the view of said intersection.
 - D. Each sign in the incorporated limits of Clear Lake shall at least meet the standards established by the South Dakota Department of Transportation.
 - E. Other than utility fixtures or holiday decorations, no signs, awnings, or display shall be suspended, hanged or placed so that the same shall hang over any part of a street or sidewalk, used for vehicular or pedestrian travel unless a written application for a permit is made to the Administrative Official and the said Official grants a permit therefore.
 - F. The Administrative Official shall take into consideration factors that would make the proposed structure likely to endanger the property or personal safety of passersby traveling the streets or sidewalks in question, and whether or not such structure complies with the 2006 edition of the International Building Code as published by the International Code Council, Incorporated relating to outdoor advertising.
 - G. The maximum square footage for on-premise wall signs in the General Commercial Zoning District shall be twenty (20) percent of the area of the wall which such sign is a part of, attached to or most nearly parallel to.
 - H. The maximum square footage for on-premise wall signs in the Industrial Zoning District shall be ten (10) percent of the area of the wall which such sign is a part of, attached to or most nearly parallel to.
 - I. The maximum square footage for on-premise wall signs in the Agricultural Zoning District shall be ten (10) percent of the area of the wall which such sign is a part of, attached to or most nearly parallel to.
 - J. The maximum square footage for on-premise wall signs in the General Residential Zoning District shall be three (3) square feet.
 - K. The maximum square footage for on-premise free standing signs in the General Commercial Zoning District shall be one (1) square foot for each lineal foot of frontage or two hundred (200) square feet, whichever is less.

- L. Off-premise signs erected in those zoning districts where permitted shall have a maximum surface area of three hundred (300) square feet.
- M. Temporary signs for public or private institutions, school, nonprofit membership organizations, and philanthropic institutions that are educational, cultural; religious or recreational in nature, may display temporary on-premises or off-premises signs shall not require a permit provide the following:
 - i. The size shall not exceed sixty (60) square feet;
 - ii. The height of the sign shall not exceed eight (8) feet;
- N. Electronic Message Sign:
 - i. Electronic message sign displays shall be limited to displays, which are gradual movements, including, but not limited to, dissolve, fade, scrolling, or traveling. However, sudden movement is prohibited, including, but not limited to, blinking and flashing.
 - ii. Any permitted signs may be, or may include as an individual component of the total sign area, electronic message signs.
 - iii. Electronic messages or graphic displays may be changed at periodic intervals by gradual entry and exit display modes provided that messages and animation shall be displayed at periodic intervals by various modes, such as fade, dissolve, scrolling, or traveling.

CHAPTER 4.05. PARKING

Section 4.05.01. Parking, Storage, or Use of Major Recreation Equipment.

For purposes of these regulations, major recreational equipment is defined as including boats and boat trailers, travel trailers, pick-up campers or coaches (designed to be mounted on automotive vehicles), motorized dwellings, tent trailers, and the like, and cases or boxes used for transporting recreational equipment, whether occupied by such equipment or not. No major recreational equipment shall be parked or stored in the required front yard of any lot in a residential district, provided however, that such equipment may be parked anywhere on residential premises for a period not to exceed seventy-two (72) hours during loading or unloading. No such equipment shall be used for living, sleeping, or housekeeping purposes when parked or stored on a residential lot, or in any location not approved for such use.

Section 4.05.02. Parking and Storage of Certain Vehicles.

Automotive vehicles or trailers of any kind or type without current license plates shall not be parked or stored on any property in the commercial, industrial, or residential districts other than in completely enclosed buildings.

Section 4.05.03. Off-Street Parking Requirements.

Except in the "CB" Central Business Overlay District, off-street motor vehicle parking and loading spaces shall hereafter be provided on the same lot as, and in the number stated, for each use set forth in the Schedule of Minimum Off-street Parking and Loading Requirements below. In the event the minimum number of spaces specified cannot be reasonably provided on the same lot as the principle use for which the spaces are required, the Board of Adjustment

may permit such spaces to be provided on other off-street property within four hundred (400) feet of the entrance to such principle use.

USE OR STRUCTURE	MINIMUM OFF-STREET PARKING REQUIREMENTS	MINIMUM OFF-STREET LOADING REQUIREMENTS
Bed & Breakfast	One (1) space for each guest room	None
Bowling Alleys	Four (4) spaces per alley	One (1) space per establishment
Churches	One (1) space for each four (4) seats in the main seating area	None
Eating & Drinking Places	One (1) space for each three (3) customer seating spaces	One space per establishment
Hospitals	One (1) space for each three (3) beds	Three spaces per establishment
Hotels/Motels	One (1) space for each guest room	One space per establishment
Industrial Uses	One (1) space for each two (2) employees on the maximum working shift	Two spaces per establishment
Libraries	One (1) space for each five hundred (500) square feet of floor area	One space per establishment
Medical or dental clinics	One (1) space for each examining or operating room plus one (1) space for each doctor and employee	None.
Manufactured home parks	Two (2) spaces for each manufactured home	None
Mortuaries & funeral homes	Five (5) spaces for each reposing room	Two spaces per establishment
Multiple family dwellings nursing, convalescent & rest homes	Two (2) spaces for each dwelling unit exclusive of required yards	None
Office	1/250 sq. ft. of gross floor area	None
Private clubs, lodges,	One (1) space for each one	None

USE OR STRUCTURE	MINIMUM OFF-STREET PARKING REQUIREMENTS	MINIMUM OFF-STREET LOADING REQUIREMENTS
social or fraternal organizations	hundred (100) square feet or one (1) space for each three (3) seats at bars or dining tables, whichever is greater	
Schools	One (1) space for each twenty-five students	One (1) space per school
Service Establishments	One (1) space for each three hundred (300) sq. ft. of floor area	One (1) space per establishment
Retail sales establishments	One (1) space for each three hundred (300) square feet of floor area	One (1) space per establishment
Single family dwellings	Two (2) spaces for each dwelling unit exclusive of required yards	None
Theatres, auditoriums & places of public assembly	One (1) space for each four (4) seats of design capacity	One (1) space per establishment
Wholesale & distribution	One (1) space for each two (2) employees on the maximum working shift	Two (2) spaces per establishment

CHAPTER 4.06. STRUCTURES TO HAVE ACCESS.

Every building hereafter erected or moved shall be on a lot adjacent to a public street, or with access to private streets approved by the Board of Adjustment, and all structures shall be so located on lots as to provide safe and convenient access for services, fire protection and required off-street parking.

CHAPTER 4.07. ADULT USES.

In the development and execution of these regulations, it is recognized that there are some uses which, because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances thereby having a deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. These special regulations are itemized in this section. The primary control or regulation is for the purpose of preventing a concentration of these uses in any one area.

Section 4.07.01 Setbacks.

1. None of the following uses may be established, operated or maintained within five hundred (500) feet of a residence, a church, a school meeting all the requirements of the Compulsory Education Laws of the State of South Dakota, or a public park.
 - A. Adult bookstore.
 - B. Adult motion picture theater.
 - C. Adult photo studio.
 - D. Adult Entertainment Facility.
 - E. Any use which has as a part of its operation an adult use component including, but not limited to, a restaurant or eating place, a bar, lounge or tavern.
 - F. Any use intended to provide adult amusement or entertainment.
2. Not more than two of the following uses may be established, operated or maintained within five hundred (500) feet of each other:
 - A. Adult bookstore.
 - B. Adult motion picture theater.
 - C. Adult photo studio.
 - D. Adult entertainment facility.
 - E. Any use which has as a part of its operation an adult use component including, but not limited to, a restaurant or eating place, a bar, lounge or tavern.
 - F. Any use intended to provide adult amusement or entertainment.
 - G. A bar.
 - H. A liquor store.
3. The 500-foot restriction provided for in 4.07.01.2 above may be waived and a conditional use permit issued upon proper application if the Board of Adjustment finds:
 - A. That the proposed use will not be contrary to the public interest or injurious to nearby properties and that the spirit and intent of these regulations will be observed.
 - B. That the proposed use will not enlarge or encourage the development of a 'skid row' area.
 - C. That all applicable regulations will be observed.

Section 4.07.02. Required License.

It shall be unlawful for any person to engage in the business of operating an adult use in the City of Clear Lake without first having obtained a license from the City Council.

Section 4.07.03. Application: Standards for Issuance.

1. Application for an adult use license shall be made in writing and shall state the following:
 - A. The name, address, telephone number and age of the applicant and the registered agent of the applicant if the applicant is a corporation.
 - B. The location of the adult use business.
 - C. The exact nature of the adult use to be conducted and of the proposed place of business and the facilities related thereto.
 - D. A statement by the applicant that he is familiar with the provisions of this article and is in compliance with them.
 - E. A statement of whether the business will be conducted by a manager and, if so, the name, address, telephone number, and age of each such manager.
 - F. A statement that no manager or principal operating the business has been convicted of any offense of prostitution, soliciting for prostitution, or obscenity or public indecency as defined in the South Dakota Compiled Statutes within the last two (2) years, and that the applicant has not had any license for an adult use in any other community revoked within the last two (2) years.
2. Within one (1) month after receipt of an application for an adult use license, the City Council shall investigate the information contained in the application and shall determine the following:
 - A. That the premises designated by the applicant as the location of the business are in full compliance with all applicable ordinances of the City, including zoning ordinances.
 - B. That the premises and each manager and employee comply with the provisions of Section 4.07.03.1 as such provisions apply to them.
 - C. That the applicant, each manager and each employee are over twenty-one (21) years of age.
 - D. That no manager or principal operator of the business has been convicted of any offense of prostitution, solicitation for prostitution, or obscenity or public indecency, as defined in the South Dakota Compiled Statutes within the last two (2) years, and that the applicant has not had any license for an adult use revoked within the last two (2) years.
3. If the investigation shows the compliance of the applicant for an adult use license, the premises upon which the business is to be conducted and each manager and employee, if applicable, with each of the requirements established in subsections (1) and (2) of this section, and with the conditions and regulations set forth in Section 4.07.03 within one (1)

month after completion of such investigation, the City Council shall issue a license, and upon payment by the applicant of the license fee required under this article, the license shall be issued.

4. If the investigation shows that the applicant for an adult use license, the premises on which the business is to be conducted, or the managers and employees, if applicable, do not comply with each of the requirements established in subsection (1) of this section, and with the conditions and regulations set forth in Section 4.07.04 within one (1) month after completion of such investigation, the City Council shall notify the applicant in writing that the license has been denied. Such denial shall be the final administrative action of the City with respect to the license application, and shall be subject to the immediate appeal by the applicant to the circuit court.

Section 4.07.04. Conditions & Regulations Governing Operation; Violation; Penalty.

1. The following regulations shall govern and control the business of operating an adult use in the City of Clear Lake:
 - A. No person under twenty-one (21) years of age shall be allowed on the licensed premises.
 - B. At all times during the hours of operation there shall be present a manager or other employee of the licensee who shall be not less than twenty-one (21) years of age.
 - C. Upon a change of any manager conducting business for the licensee, the licensee shall, within ten regular business days, give the City Council written notice of such change by actual delivery or by registered or certified mail. The licensee shall, thereafter, as promptly as practicable, but in any event within five (5) regular business days, provide the information concerning the new manager which is required in Section 4.07.03.
 - D. No adult use shall be located on premises for which a license to sell alcoholic liquor has been issued, and no alcoholic liquor shall be permitted on such premises.
 - E. No adult use shall be permitted unless the premise on which such business is located complies with the requirements of the zoning ordinance.
 - F. No licensee or manager under the provisions of this article shall knowingly permit any person to remain in or upon licensed premises who commits any act of public indecency or obscenity as defined in the South Dakota Compiled Statutes.
 - G. No licensee or manager under the provisions of this article shall permit any act of prostitution, solicitation for prostitution or patronization of a prostitute on the licensed premises.
 - H. No sign shall be posted on the licensed premises which depicts, displays or refers to specified anatomical areas or specified sexual activities, as defined in this article.
2. In addition to the requirements established in Section 4.07.04.1, the following regulations shall govern and control the operation of an adult bookstore which offers any films or videotapes for viewing on premises by use of motion picture devices or other such operations means:

- A. All viewing areas, which shall be defined as the area where a patron or customer would ordinarily be positioned while watching a film or viewing device, shall be visible from a continuous main aisle or public room and shall not be obscured by any curtain, door, wall or other enclosure.
 - B. There shall be no aperture whatsoever in any wall or partition between viewing areas.
 - C. Each viewing area shall be lighted at a minimum level of ten (10) foot candles in all parts thereof.
3. In addition to the requirements established in Section (1) of this section, the following regulations shall govern and control the operation of an adult entertainment facility:
- A. All performers shall be at least twenty-one (21) years of age.
 - B. All performances, exhibitions or displays shall take place on a platform raised at least two feet from the level of the floor, and located at least ten (10) feet from any patron.
 - C. No performer shall fondle or caress any patron or other performer and no patron shall fondle or caress any performer.
 - D. No patron shall be permitted to pay or give any gratuity to any performer, and no performer shall solicit any pay or gratuity from any patron.
4. It shall be unlawful for any person licensed to engage in the business of operating an adult use within the City to fail to comply with the conditions and regulations set forth in subsections 4.07.03 and 4.07.04 of this section as they are applicable to the licensed business, or to suffer or permit noncompliance with such conditions and regulations on or within the licensed premises. In this regard, any act or omission of an employee shall be deemed the act or omission of the owner if such act or omission occurred either with the authorization, knowledge or approval of the owner or as a result of the owner's negligent failure to supervise the employee's conduct. All conduct occurring while on the premises shall be presumed to be the responsibility of the owner.
5. Any person convicted of a violation of this section shall be subject to a fine pursuant to Section 1.02.02 of this Ordinance.

Section 4.07.05. Suspension or Revocation.

Nothing in the terms of this article shall preclude the right of the City Council to suspend or revoke the license of the licensee, as follows:

- 1. The City Council may temporarily suspend any license issued under the terms of this article when he has reason to believe that the continued operation of a particular licensed premises will immediately threaten the welfare of the community or create an imminent danger of violation of applicable law. In such case, he may, upon the issuance of a written order stating the reason for such determination, and without notice or hearing, order the licensed premises closed for not more than seven (7) days; provided, that the licensee shall be given an opportunity to be heard in a public hearing during the seven (7)-day period, and further

provided that if such licensee shall also be engaged in the conduct of other business on the licensed premises, such order shall not be applicable to such other businesses.

2. The City Council may suspend or revoke any license issued under the terms of this article upon ten (10) days notice to the licensee of the time and place of a public hearing, and a public hearing at which the licensee may appear and present evidence, if the City Council determines upon such hearing that the licensee has failed or refused to comply with the terms of this article, has failed or refused to comply with other law applicable to the business of operating an adult use, has knowingly permitted the failure of any manager or employee on the premises to comply with the terms of this article or with other law applicable to the business of operating an adult use, has knowingly furnished false or misleading information on any application required for any license under this section or has suffered or caused another to furnish or withhold such information on his behalf, or has been convicted by a court of competent jurisdiction of a violation of any provision of this section.

CHAPTER 4.08. YARDS.

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

Section 4.08.01. Yards, Reduction in Size.

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

Section 4.08.02. Additional Yard Requirements.

The following yard requirements must be observed in addition to the yard requirements of the various districts:

1. Except in the "C-1" District, a corner lot must have a front yard on both streets. Exception: All buildings located on lots adjacent to any residential district shall observe a yard requirement equivalent to the minimum yard requirements of the residential district on the side or sides adjacent
2. On through lots and reversed frontage lots, a front yard must be provided on both streets.
3. Required front yards shall be devoted entirely to landscaped area except for the necessary paving or driveways and sidewalks to reach parking or loading areas in the side or rear yard. However, no evergreen or coniferous tree shall be planted within the required front yard of any lot.

Section 4.08.03. Exceptions to Yard Requirements.

The following exceptions may be made to the yard requirements:

1. Air conditioning units, sills, chimneys, cornices, and ornamental features may project into a required yard a distance not to exceed twenty-four (24) inches.
2. Filling station pumps and pump islands may occupy required yards, provided, however, that they are not less than fifteen (15) feet from all lot lines.
3. An accessory building may be located in a rear yard but not occupy more than 30 percent of a rear yard.
4. Any accessory buildings closer than ten (10) feet to a main building shall be considered as part of the main building and shall be provided with the same side and rear yard requirements as the main building.

CHAPTER 4.09. ERECTION OF MORE THAN ONE PRINCIPAL STRUCTURE ON A LOT.

In any district, only one (1) structure housing a permitted or permissible principal use may be erected on single lot, provided that yard and other requirements are met.

CHAPTER 4.10. EXCEPTIONS TO HEIGHT REGULATIONS.

The height limitations contained in Article II do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

CHAPTER 4.11. MANUFACTURED HOME PROVISIONS.

Section 4.11.01. Modular Homes.

Modular homes shall meet the following regulations.

1. Modular homes shall meet or exceed International Building Code 2006.
2. Modular homes will include all off-site constructed homes, which may be transported to the site in one or more sections.
3. Modular homes shall have more than one thousand (1,000) square feet in ranch style and eight hundred fifty (850) square feet split and be placed on a permanent foundation. The foundation shall be to a depth below the frost line.
4. Modular homes shall have a minimum of a 3/12 roof pitch.
5. Modular homes shall have siding material of a type customarily used on site-constructed residences.
6. Modular homes shall have roofing material of a type customarily used on site-constructed residences.

Section 4.11.02. Type I and Type II Manufactured Homes.

1. For the purpose of this Ordinance, manufactured homes will be regulated by type. Two types of homes are defined under these regulations.

A. Type I manufactured home shall:

- i. Have more than one thousand two hundred (1,200) square feet of occupied space in a double section or larger multi section unit.
- ii. The running gear and hitch have been removed.
- iii. Has been anchored to a foundation and permanent footing.
- iv. The foundation shall be (a) an approved wood basement constructed of 2 x 6 framework and treated with water resistant materials; or (b) a foundation shall be constructed with eight inches poured concrete or concrete block.
- v. The footing to be a minimum of eight (8) inches thick by sixteen (16) inches wide poured concrete with top of footing to be sixteen (16) inches below grade.
- vi. Prior to placement of a home on the foundation, it must be inspected and approved by the Administrative Official.
- vii. Have a gabled roof with a pitch of at least 3/12 feet.
- viii. Have siding material of a type customarily used on site-constructed residences.
- ix. Have roofing material of a type customarily used on site-constructed residences.
- x. The age of the manufactured house may not exceed ten (10) years from the date of manufacture.

B. Type II manufactured home shall:

- i. Have more than seven hundred (700) square feet of occupied space in a single, double, expando or multi-section unit.
- ii. Utilize a permanent perimeter enclosure in accordance with approved installation standards, as specified in Section 4.12.02.2.a.
- iii. Be anchored to the ground, in accordance with manufacturer's specifications, or as prescribed by the TR-75, issued June 1972, by the U.S. Department of Defense or by the ANTI/NFPA 501A Standards.
- iv. Have siding material of a type customarily used on site-constructed residences.
- v. Have roofing material of a type customarily used on site-constructed residences.

- vi. The age of the manufactured house may not exceed ten (10) years from the date of manufacture.
- vii. Be placed onto a support system, in accordance with approved installation standards, as specified in Section 4.11.02.2.c.

2. Installation standards

A. Permanent Perimeter Enclosure as required for Type I Manufactured Homes.

Those manufactured homes designated in this Ordinance (Type I), as requiring a permanent perimeter enclosure must have footings and crawl space or basement walls. The space between the floor joints of the home shall be completely enclosed with the permanent perimeter enclosure (except for required openings).

B. Foundation Siding/Skirting

All manufactured homes without a permanent perimeter enclosure (Type II) shall have an approved foundation siding/skirting enclosing the entire perimeter of the home.

C. Support System

- i. All HUD-Code manufactured homes of the Type I classification shall be installed with load bearing foundations in conformance with the manufacturer's installation specifications.
- ii. Type II manufactured homes not placed on a permanent foundation shall be installed on a support system in conformance with the manufacturer's installation specifications or with the support systems regulations in the ANTI/NFPA 501A 1977 installation standards.

3. Nonconforming Homes.

A manufactured home placed and maintained on a tract of land and deemed to be a legal nonconforming use prior to the adoption of this Ordinance shall continue to be a legal nonconforming use. If the nonconforming use is discontinued for a period of one year, the land thereafter must be used in conformity with all provisions of this Ordinance.

4. Replacement of Nonconforming Homes.

See 2.02.03.6

5. Structural Alteration.

Due to its integral design, the Administrative Official after it is placed on the site must approve any structural alteration or modification of a manufactured home.

6. Variance from Maximum Age Requirement

Type I and Type II manufactured homes may receive a variance from the maximum age requirement (Chapter 4.11). The Board of Adjustment may grant a variance if the applicant requesting the placement of the manufactured home meets the following requirements:

- A. The applicant shall provide a photograph of the manufactured home's exterior and interior.
- B. That it shall have been shown to the satisfaction of the Board of Adjustment that the said manufactured home complies with the gas, plumbing, electrical, and construction requirements of the City of Clear Lake.
- C. The applicant shall obtain, and present to the Board of Adjustment, the written consent of sixty-six (66) percent of the property owners owning property immediately adjacent (excluding streets and alleys) to the proposed building site.

CHAPTER 4.12. PERMANENT FOUNDATIONS REQUIRED FOR DWELLINGS.

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

CHAPTER 4.13. UTILITY EASEMENTS.

No building or addition thereto shall be erected over or across any existing public utility or upon any platted easement.

CHAPTER 4.14. MOVED IN BUILDINGS.

It shall be unlawful to move any house or other building onto any lot or to any new location within the City of Clear Lake unless and until a permit to do so has been obtained from the Administrative Official. No permit shall be issued until the following requirements are met.

- 1. The fee for said permit as prescribed in Article III, Section 3.01.03, shall have been paid.
- 2. That it shall have been shown to the satisfaction of the Administrative Official that the said house or other building complies with the gas, plumbing, electrical and construction requirements of the City of Clear Lake.
- 3. That the work is to be completed within twelve (12) months after the permit has been issued by the Administrative Official.
- 4. The applicant may also be required to file with the Finance Officer a sufficient bond conditioned so that the applicant will indemnify the City and any public utility for any damage done to any property, street, alley or public grounds and to insure that any site reclamation work is completed, said bond is to be a minimum amount of five hundred dollars (\$500). No

building shall be moved other than during the period from daylight to sundown. Before any permit is granted under this section, the applicant must furnish proof that all taxes legally assessed against the property have been paid.

5. If a building or structure is to be moved onto any lot within the City, the Administrative Official shall have the power to deny the granting of a moving permit on the grounds that the intended use of the structure or location thereof is contrary to the provisions of this chapter.
6. Any applicant for a building which is not newly constructed to be used for first occupancy, shall also submit the written consent of sixty-six (66) percent of property owners owning property immediately adjacent (excluding streets and alleys) to the proposed building site.

CHAPTER 4.15 MOVED OUT BUILDINGS

It shall be unlawful to move any house or other building off of any lot within the City unless and until a permit to do so has been obtained from the Administrative Official. No permit shall be issued until the following requirements are met.

1. The fee for said permit as prescribed in Section 3.01.03, shall have been paid.
2. That the work is to be completed within twelve (12) months after the permit has been issued by the Administrative Official.
3. The applicant shall also file with the Finance Officer a sufficient bond so that will indemnify the City and any public utility for any damage done to any property, street, alley or public grounds, said bond is to be a minimum amount of five hundred dollars (\$500).
4. Sanitary sewer and other utilities are to be discontinued and covered in accordance with the requirements of the City of Clear Lake and applicable utility provider.
5. No building shall be moved other than during the period from daylight to sundown. Before any permit is granted under this section, the applicant must furnish proof that all taxes legally assessed against the property have been paid. If a building or structure is to be moved onto any lot within the City, the Administrative Official shall have the power to deny the granting of a moving permit on the grounds that the intended use of the structure or location thereof is contrary to the provisions of this chapter.
6. When no replacement structure is to be moved in or constructed, the applicant shall agree to restore the lot to a buildable condition. This may include but is not limited to concrete basement removal, collapsing of the basement walls, earthwork, landscaping and/or reseeding.

CHAPTER 4.16 DEMOLITION OF BUILDINGS

It shall be unlawful to demolish any house or other building within the City unless and until a permit to do so has been obtained from the Administrative Official. No permit shall be issued until the following requirements are met.

1. The fee for said permit as prescribed in Section 3.01.03, shall have been paid.

2. That the work is to be completed within twelve (12) months after the permit has been issued by the Administrative Official.
3. Sanitary sewer and other utilities are to be discontinued and covered in accordance with the requirements of the City of Clear Lake and applicable utility provider.
4. When no replacement structure is to be moved in or constructed, the applicant shall agree to restore the lot to a buildable condition. This may include but is not limited to concrete basement removal, collapsing of the basement walls, earthwork, landscaping and/or reseeding.

CHAPTER 4.17. SCREENING.

Where any “C” and “I” use is adjacent to a residential district, that use (building, parking or storage) may be required to be appropriately screened from the Residential Use District by plantings or fencing, except where planting or fencing may be in conflict with Chapter 4.01 or Chapter 4.02.

CHAPTER 4.18. REFUSE.

In all zoning districts, refuse (rubbish, garbage, trash, waste or debris) shall be kept within a complete enclosed building or specially designed closed container made for such purpose. Owners of vacant lots shall be responsible for keeping their property free of trash.

CHAPTER 4.19. WIND ENERGY CONVERSION SYSTEMS AND VERTICAL AXIS WIND TURBINES

4.19.01. Purpose.

The purpose of this ordinance is to insure that the placement, construction and modification of a Wind Energy Conversion System (WECS) facility is consistent with the City’s land use policies, to minimize the impact of WECS facilities, to establish a fair and efficient process for review and approval of applications, to assure a comprehensive review of environmental impacts of such facilities, and to protect the health, safety and welfare of the City’s citizens.

4.19.02. Federal and State Requirements.

All WECS facilities shall meet or exceed standards and regulations of the Federal Aviation Administration and South Dakota State Statutes and any other agency of federal or state government with the authority to regulate WECS facilities.

4.19.03. Requirements for Small Wind Energy Conversion Systems (SWECS) and Vertical axis wind turbines (VAWT)

1. **General.** Small Wind energy conversion systems (SWECS) and Vertical axis wind turbines (VAWT) shall be allowed as accessory structures as conditional uses in certain zoning districts. In addition to the standards set forth in Section 3.05.02 regarding all conditional use permits, all SWECS and VAWTs shall also meet all requirements of Section 4.18 herein.
2. **Required Setbacks.** The minimum setback distance between each SWECS and all surrounding property lines, overhead utility or transmission lines, other wind turbine towers, electrical substations, public roads and structures intended for human occupation shall be equal to no less than one point one (1.1) times the system height.

The minimum setback distance between each VAWT and all surrounding property lines, overhead utility or transmission lines, other VAWTs, electrical substations, public roads and structures intended for human occupation shall be one (1) times the height of the vertical axis wind turbine as measured from the ground or rooftop if mounted on a rooftop.

3. **Tower Height.** In no event shall the height of a SWECS exceed ninety (90) feet as measured from the ground to the rotor hub. Further, there shall be no less than thirty (30) feet between the lowest arc of the rotors of a wind energy conversion system and the ground, any portion of a structure or any tree.

In no event shall the height of a VAWT exceed sixty (60) feet as measured from the ground to the center of the rotor hub. Further, there shall be no less than thirty (30) feet between the VAWT and the ground.

4. **Rotor size/operation.** The maximum size of the rotors of a SWECS or VAWT shall be reviewed upon application for a conditional use. 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 SWECSs and VAWTs 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.
5. **Noise.** No SWECS or VAWT shall produce more than forty (40) decibels of sound measured at the closest point on the closest **residentially** zoned property line from the base of the system. No SWECS or VAWT shall produce more than sixty (60) decibels of sound measured at the closest point on the closest **agricultural, industrial, or commercially** zoned property line from the base of the system. Information from the manufacturer of the wind energy conversion system shall be submitted at the time of the submittal of the conditional use, ensuring that this requirement can be met once the system is operational. The owner may be required to submit independent noise studies to verify that the noise standard is met during actual operations. The level, however, may be exceeded during short-term events such as utility outages or wind storms.
6. **Tower design.** The tower and turbine shall be a neutral color and shall have a non-reflective finish. In reviewing the conditional use for a SWECS or VAWT, the city shall consider the design and color of the tower to ensure that no significant adverse impacts are occurring to neighboring property owners, including, but not limited to, infringement into natural and urban viewsheds, historic property, major community entryways, parks, schools, churches, playgrounds, or similar public and recreational uses.

7. **Lighting.** A SWECS or VAWT shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration (FAA). Dual mode lighting shall be requested from the FAA. Flashing beacon lighting, unless required by FAA, shall not be utilized.
8. **Signs.** All signs, other than the manufacturer's or installer's identification, appropriate warning signs, or owner identification on a wind generator, tower, building, or other structure associated with a SWECS or VAWT visible from any public road shall be prohibited. Size of the sign shall be consistent with Section 4.04.
9. **Tower Access.** Appropriate safety measures must be undertaken to discourage unauthorized climbing of a SWECS or VAWT tower. Appropriate measures shall include either:
 - a. All ground mounted electrical and control equipment shall be labeled or secured to prevent unauthorized access.
 - b. The construction of a six (6)-foot tall chain link fence, with approved fencing materials to be approved by the Board of Adjustment, with locking gate around the tower; and/or
 - c. The tower shall be constructed so that the lowest climbing access shall be at least twelve (12) feet above the ground; or
 - d. A locked anti-climb device shall be installed on the tower.
10. **Construction Standards.** Any wind energy conversion system shall be constructed in accordance with all applicable life, safety, electrical, building and fire codes including but not limited to the following:
 - a. An applicant for a building permit for a SWECS or VAWT shall submit pre-construction plans and specifications and post-construction inspection stamped by a registered engineer.
 - b. **Lightning Protection.** Any SWECS or VAWT 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.
11. **Warning information.** Information related to the maximum power output, nominal voltage and maximum current, and emergency shut-down procedures for the SWECS or VAWT shall be posted near the base of the tower in a visible location.
12. **Utility interconnections.** Any SWECS or VAWT shall be constructed and operated, and any interconnection between a SWECS or VAWT 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 the Federal Aviation Administration. Additionally, electrical interconnections shall be allowed only in accordance with the applicable standards of the electric utility company. No SWECS shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this notification requirement.

13. **Electromagnetic interference.** No SWECS or VAWT shall produce electromagnetic interference so as to disrupt transmissions such as those from radio, television or microwave towers. At the time of application for the conditional use, the applicant must submit information from the manufacturer indicating that, once operational, the SWECS or VAWT will not adversely affect the transmissions. If necessary, generators and alternators shall be filtered, shielded, or both so as to prevent the emission of radio and television signals.

14. **Abandonment/removal.**

- a. Any wind energy conversion system which has not been used for a period of six (6) months or more shall be declared abandoned. The City may issue a Notice of Abandonment to the owner of a SWECS that is deemed to have been abandoned. The owner shall have the right to respond to the Notice of Abandonment within thirty (30) days from Notice receipt date. Upon determination of abandonment of the system, the city shall revoke the conditional use and the system shall be removed at the expense of the property owner. The city shall determine that a wind energy conversion system has not been used if the following criteria apply:
 - i. 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 a minimum of twenty-five (25) of the power output as stated in the system specifications over the past six (6) months;
 - ii. The wind energy conversion system has fallen into obvious disrepair and/or has been condemned by the City of Clear Lake.
 - iii. The wind energy conversion system has become violative of some other local, state or federal law and the owner of the system has not taken appropriate actions to remedy the problem.
- b. If the SWECS is determined to be abandoned, and the owner has not responded to the notice of abandonment as prescribed above, the SWECS shall be removed at the Owner's sole expense within three (3) months of receipt of Notice of Abandonment. If the owner fails to remove the wind generator from the tower, the City may pursue legal action to have the SWECS removed at the owner's expense.
- c. If deemed appropriate, the city may stipulate through the conditional use that the wind energy conversion system shall be removed at the owner's expense, upon the rezoning of the subject property to a zoning district classification in which wind energy conversion systems are not allowed as either a permitted use or conditional use.

4.19.04. SWECS or VAWT Application Information

- 1. In addition to the Building Permit requirements in Chapter 3.01, the building permit application shall be accompanied by the following:
 - a. A plot plan which includes the following:
 - i. Property lines and physical dimensions of the property;

- ii. Location, dimensions, and types of existing major structures on the applicant's property and adjacent property;
 - iii. Location of the proposed SWECS or VAWT;
 - iv. The right-of-way of any public road that is contiguous with the property;
 - v. Any overhead utility lines.
- b. SWECS or VAWT specifications, including manufacturer and model, rotor diameter, tower height, and tower type (monopole, lattice, guyed);
 - c. Tower foundation blueprints or drawings;
 - d. Tower blueprint or drawing;
 - e. Manufacturer warranty/maintenance information. Upon application for a conditional use for a SWECS or VAWT, the applicant shall submit a manufacturer's statement documenting that the SWECS or VAWT system has been successfully and safely operated in atmospheric conditions that are similar to conditions in Clear Lake. Further, the applicant shall provide a copy of the manufacturer's warranty indicating that the SWECS or VAWT system is warranted against any SWECS or VAWT system failures reasonably expected during severe weather conditions. Further, the applicant shall submit SWECS or VAWT system specifications including maximum power output and a maintenance schedule for the SWECS or VAWT system; and
 - f. Proof of notification to the utility in the service territory in which the SWECS or VAWT is to be erected, consistent with the provisions of 4.19.03.13 herein.
2. Expiration. A conditional use permit issued pursuant to this ordinance shall expire if:
- a. The SWECS or VAWT is not installed and functioning within twelve (12) months from the date the conditional use permit is issued; or
 - b. The SWECS or VAWT is determined to be abandoned consistent with the provisions of 4.19.03.14 herein.

4.19.05. Requirements for Large Wind Energy Conversion Systems.

Large wind energy systems shall be and are prohibited within the City limits of the City of Clear Lake and any area of extra territorial jurisdiction the City may have.

CHAPTER 4.20. STABLING, PASTURING, RAISING OF LIVESTOCK.

- 1. The stabling, pasturing, raising of livestock on agriculturally zoned parcels shall require a conditional use permit.
- 2. On agriculturally zoned parcels of ten (10) acres or less, a maximum of one (1) animal unit per acre may be allowed. Agriculturally zoned parcels, existing as of August 21, 2010, that

contain animals are allowed to expand the existing number of animal units to the maximum density allowed {one (1) animal unit per acre} without having to acquire Board of Adjustment approval.

3. The maximum number of animal units to be stabled, pastured, and/or raised on parcels of ten (10) acres or more shall be determined by the Board of Adjustment.
4. In order to obtain a conditional use permit, at a minimum, the Board of Adjustment requires the following:
 - A. Adjoining landowners and landowners within three hundred (300) feet of the proposed pasturing, stabling, and/or raising of livestock shall be notified per 3.05.02.1.C.
 - B. The applicant shall demonstrate that he/she has sufficient number of acres of land to support the proposed number of animal units to be stabled, pastured, and/or raised.
 - C. A manure/nutrient management plan that details the management of manure on site and the safe disposal of the manure.
5. The definition of a feedlot does not apply to the stabling, pasturing, raising of livestock for which a conditional use permit has been granted.

CHAPTER 4.21. LANDSCAPE STANDARDS AND MAINTENANCE.

In all districts, trees that have foliage hanging over sidewalks or street right-of-way shall be trimmed to clear such sidewalk or street right-of-way by ten (10) feet, and no shrubbery, hedges, or coniferous trees shall be planted, or objects be permitted in the street right-of-way, and if such plantings or objects within the street right-of-way become a hazard or nuisance to the use of such street right-of-way for lawful street right-of-way purposes including but not limited to garbage disposal or street maintenance, the City of Clear Lake shall not be held liable for removal or damage to such plantings

The City of Clear Lake shall have the power to destroy trees in the boulevards if infested by disease or by injurious insects and such destruction is necessary for the protection of other trees.

ARTICLE V DEFINITIONS

CHAPTER 5.01. GENERAL TERMS

For the purpose of this ordinance, certain terms and words are hereby defined. Words used in the present tense shall include the future; the singular number shall include the plural and the plural the singular; the word "building" shall include the word "structure," and the word "shall" is mandatory and not discretionary; the word may is permissive; the word person includes a firm, association, organization, partnership, trust, company or corporation, as well as, an individual; the word lot includes the word plat or parcel; and the words used or occupied include the words intended, designed, or arranged to be used or occupied. Any word not herein defined shall be as defined in any recognized Standard English dictionary.

Accessory Use or Structure. As applied to use or structure, means customarily subordinate or incidental to, and on the premises of such use or structure.

Adult Bookstores. An establishment having, as a substantial portion of its stock in trade, books, magazines, films or videotapes for sale or viewing on the premises by use of motion picture devices or other coin-operated means, and other periodicals which are distinguished by their emphasis on matter depicting, describing or relating to specified Sexual Activities or Specified Anatomical Areas as such terms are defined in this section, or an establishment with a segment or section devoted to the sale or display of such material. Adult bookstores may alternatively or in conjunction with the above stock in trade sell undergarments and other clothing designed for the display of Specified Anatomical Areas or for the enhancement of Specified Sexual Activities. Further, an adult bookstore may alternatively or in conjunction with the above stock in trade sell prosthetic devices, dolls, candles, vibrators and other objects for sexual gratification which take the form of Specified Anatomical Areas and for the purpose of enhancing Specified Sexual Activities.

Adult Entertainment Facility. Means an establishment offering to its patrons, as entertainment, any exhibition or display or any theatrical or other live performances which include topless or go-go dancers, exotic dancers, strippers, male or female impersonators, or similar entertainers, or any persons singing, reading, posing, modeling, or serving food or beverages, where the exhibition, performance, display or dance is intended to sexually arouse the entertainer or the patrons, or where the attire of persons involved is such as to expose specified anatomical areas, as defined in this section.

Adult Motion Picture Theater. An enclosed building, regardless of its seating capacity which is used to present for public view on the premises, films, movies, previews, trailers or advertisements which are distinguished by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in this section.

Adult Photo Studio. An establishment which, on payment of a fee, provides photographic equipment and/or models for the purpose of photographing "specified anatomical areas", as herein defined.

Adult Use. The term "adult use" shall include adult entertainment facility, adult bookstores, adult motion picture theaters, and adult photo studios as defined in this section.

Airport. A place where aircraft can land and takeoff, usually equipped with hangers, facilities for refueling and repair, and various accommodations for passengers, including heliports.

Alley. A minor way, dedicated to public use, which is used primarily for vehicular access to the back or side of properties otherwise abutting on a street.

Animal Unit. One animal unit is equivalent to one beef cow, steer, feeder or fat beef animal; 0.7 horse; 0.7 dairy cow; 1.7 swine; 6.7 sheep; 33 hens, cockerels, capons, broilers, or ducks; and 10 geese or turkeys.

Bar/lounge. An establishment that is licensed to sell alcoholic beverages by the drink.

Basement. A Basement has more than one-half (1/2) of its height below grade. A basement is counted as a story for the purpose of height regulations if subdivided and used for dwelling purposes.

Bed and Breakfast (B & B's). A private single-family residence, which is used to provide, limited meals and temporary accommodations for a charge to the public. Such establishments should be located where there will be minimal impact on surrounding residential properties and should comply with the following conditions:

1. B & B's shall be limited to residential structures with an overall minimum of one thousand eight hundred (1,800) square feet of floor. Preference will be given to structures with historic or other unique qualities.
2. They shall be in compliance with applicable state laws including registration with the South Dakota Department of Health, maintaining a guest list, and providing a smoke detector in each sleeping room.
3. Accessory use signs shall be based on similar requirements for a home occupation permit and shall not be more than one (1) square foot in area.
4. Such uses shall be an incidental use with an owner occupied principal dwelling structure provided that not more than four bedrooms in such dwelling structure shall be used for such purpose.
5. Off-street parking requirements shall be one space per guestroom and shall be in addition to parking requirements for the principal use. Off-street parking shall not be located in a required front or side yard and screening shall be required when adjacent to residentially used property.
6. The length of stay shall not exceed fourteen (14) days during any one hundred twenty-- (120) day consecutive period.
7. Meals shall be limited to breakfast, which is prepared in a common facility (household kitchen). Meals may be served only to overnight registered guests and cooking is not permitted in the sleeping rooms.
8. The building shall meet all building codes and zoning requirements. A site plan showing the location of guest parking spaces and floor plan showing a location of the sleeping rooms, lavatories, and bathing facilities, and kitchen shall be submitted with application.

Boarding House. A building other than a motel, hotel or restaurant, where lodging and meals are provided for three (3) or more persons, but not exceeding ten (10) persons, and not open to public or transients.

Buildable Area. That portion of the lot that can be occupied by the principal use, thus excluding the front, rear and side yards.

Building. The word “building” includes the word “structure” and is a structure which is entirely separated from any other structure by space or by walls in which there are no communicating doors or windows or similar openings.

Building Height. The vertical distance from the established average sidewalk grade or street grade, or finished grade at the building line, whichever is the highest, to the highest point of the building.

Building Line. Is a line on the lot running parallel to the required horizontal distance from the nearest property line.

Building, Principal. A non-accessory building in which is conducted the principal use of the lot on which it is located.

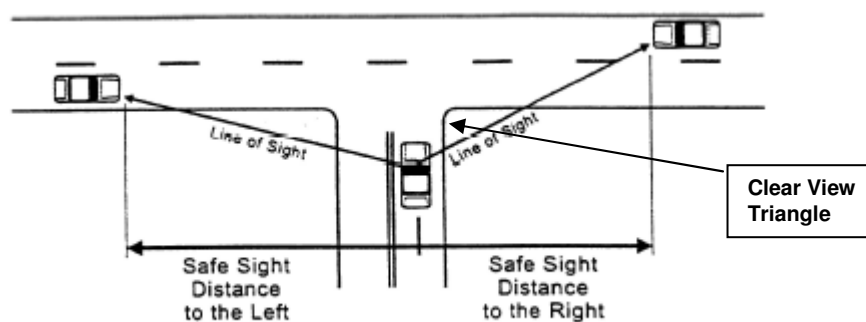
Campground. Shall mean a plot of ground for public use upon which two or more campsites are located, established, maintained, advertised, or held out to the public, to be a place where camping units can be located and occupied as temporary living quarters. Campgrounds for tent trailers and recreational vehicles shall be sited with consideration for access to the property. The campground shall be designed to minimize the impact from adjacent major thoroughfares.

Car Wash. A facility used to clean the exterior, and sometimes the interior, of automobiles.

Church. A building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose.

City Council. The governing body of the City of Clear Lake.

Clear View Triangle. A triangular-shaped portion of land established at street intersections and ingress/egress points in which there are restrictions on things erected, placed or planted which would limit or obstruct the sight distance of motorists entering or leaving the intersection (see illustration below).



Commercial Storage, Mini-Storage Facilities. Individual locker storage facilities (frequently with some accessory outdoor vehicle/boat storage) primarily for the benefit of residential or small business users in which are kept household items, business records, vehicles, recreational equipment, etc.

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

Conditional Use. A use that would not be appropriate generally or without restriction throughout the zoning district by which if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted by the Board of Adjustment when specific provision is made in this ordinance. Conditional uses are subject to evaluation and approval by the Board of Adjustment and are administrative in nature.

Condominium. The ownership of single units in a multi-unit residential structure with common elements. (With the property subject to the condominium regime established pursuant to SDCL 4315A)

Construction. Any clearing of land, excavation, or other action that would adversely affect the natural environment of the site or route but does not include changes needed for temporary use of sites or routes for non-utility purposes, or uses in securing survey or geological data, including necessary borings to ascertain foundation conditions.

Contractor Shops And Storage Yards. Those facilities to include structures and land areas where the outdoor storage of equipment and supplies used for various types of off-site construction are stored. Examples of equipment and supplies include but are not limited to the following – road construction, building construction, gravel operations, and general contracting services.

Convenience Store. Any retail establishment offering for sale pre-packaged food products, household items, and other goods commonly associated with the same, at which a customer typically purchases only a few items during a short visit.

Day Care Center. Any operation which provides child care services.

Day Care Center, Commercial. A day care center which is operated in a structure which is not a dwelling unit. To be considered a Day Care Center under these regulations, such operation must be licensed by the State of South Dakota.

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

Development. The carrying out of any surface or structure construction, reconstruction or alteration of land use or intensity of use.

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

Dwelling, Multiple-Family. A residential building designed for or occupied by three (3) or more families, with the number of families in residence not exceeding the number of household units provided.

Dwelling, Single-Family. A detached residential dwelling building, other than a manufactured home but to include modular homes, containing one (1) household unit.

Dwelling, Two-Family. A detached residential building containing two household units, designed for occupancy by not more than two (2) families.

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

Electronic Message Sign. A sign whose message may be changed at intervals by electronic process or remote control and whose only movement is the periodic changing of information having a constant light level.

Engineer. Means any engineer licensed by the State of South Dakota.

Evergreen or coniferous tree. For the purposes of this ordinance is defined as any cone bearing shrub or tree and any plant that retains its foliage throughout the year which is a minimum height of four feet measured above immediate ground level.

Family. One (1) or more persons related by blood, marriage, or adoption occupying a dwelling unit as a single household unit. A family shall not include more than three (3) adults who are unrelated by blood or law. This definition shall not include foster families as regulated by the State of South Dakota.

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

Feedlot. A feedlot is a lot, yard, corral, building or other area where animals have been, are, or will be stabled or confined for a total of forty-five (45) days or more during any twelve (12) month period, and where crops, vegetation, forage growth, or post harvest residues are not sustained over any portion of the lot or facility.

Fence. A structure used as a boundary, screen, separation, means of privacy, protection or confinement, and is constructed of wood, plastic, metal, wire mesh, masonry or other similar material and is used as a barrier of some sort.

Filling Station. Buildings and premises where gasoline, oil, grease, batteries, tires, and automobile accessories may be supplied and dispensed at retail, but where the following activities are not carried out as a normal part of doing business:

1. Major mechanical work, involving removal of the head or crankcase;
2. Auto body work, including straightening of auto body parts;
3. Painting or welding of any automobile parts;
4. Storage of automobiles not in operating condition; and
5. Any other automobile work which involves noise, glare, fumes, smoke, or other characteristics not normally found at places which sell gasoline at retail.

Flammable Liquids. Any liquid which gives off flammable vapors, as determined by the flash point from an open-cup tester as used for test of burning oils, at or below a temperature of eighty (80) degrees Fahrenheit, is flammable.

Flashing Sign. Any illuminated sign that has artificial light or color which is not maintained at a constant intensity or color when such sign is in use. A sign providing public service information, such as time, weather, date, temperature or similar information, shall not be considered a flashing sign.

Garage, Private. An accessory building used for the storage of not more than four (4) vehicles owned and used by the occupant of the building to which it is necessary. Vehicles include cars, pickups, and boats, but not commercial vehicles.

Garage, Public. A building or portion thereof, other than a private or storage garage, designed or used for equipping, servicing, repairing, hiring, selling, storing, or parking motor-driven vehicles. The term repairing shall not include an automobile body repair shop nor the rebuilding, dismantling, or storage of wrecked or junked vehicles.

Garage, Storage. Any building or premises, used for housing only motor-driven vehicles, other than trucks and commercial vehicles.

Grade. The finished grade of premises improved by a building or structure is the average natural elevation or slope of the surface of the ground within fifty (50) feet of the building or structure.

Greenhouse. A building whose roof and sides are made largely of glass regulated for the cultivation of delicate or out-of-season plants for subsequent sale or for personal enjoyment.

Group Home. A supervised living or counseling arrangement in a family home context providing for the twenty-four (24) hour care of children or adults.

High Voltage Transmission Line. A conductor of electric energy and associated facilities.

Home Occupation. A business, profession, occupation, or trade conducted for profit and located entirely within a dwelling, which use is accessory, incidental, and secondary to the use of the dwelling for residential purposes and does not change the essential residential character or appearance of such dwelling provided that:

1. No person other than members of the family residing on the premises shall be engaged in such occupation.
2. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinated to its use for residential purposes by its occupants, and not more than twenty-five percent (25%) of the floor area of the dwelling unit shall be used in the conduct of the home occupation.
3. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign, not exceeding one (1) square foot in area, non-illuminated, and mounted flat against the wall of the principal building.
4. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

5. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood and any need for parking generated by the conduct of such home occupation shall be met off the street.
6. Notwithstanding the preceding standards, any operation which provides care for more than twelve (12) children in a 24-hour period, shall not be considered a home occupation.

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

Hotel or Motel. A building designed for occupancy as the more or less temporary abiding place of individuals who are lodged with or without meals, in which there are four (4) or more guest rooms, and which is open to the public and transients.

Junk Yard. An area of land with or without buildings used for, or occupied by, a deposit, collection, or the storage outside of a completely enclosed building, or used and/or discarded materials such as waste paper, rags or scrap metal, used building materials, home furnishings, machinery, vehicles, or parts thereof, with or without the dismantling, processing, salvage, sale, or other use or disposition of the same.

Kennel. Any premise or portion thereon where more than three (3) adult dogs, cats, or other household pets are raised, trained, boarded, harbored, or kept for remuneration. Veterinary clinics, animal hospitals and animal shelters are specifically excluded.

Large Wind Energy Conversion System or LWECS. All WES facilities excluding Small Wind Energy Conversion Systems.

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

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

Lot. A parcel or tract of land having specific boundaries and which has been recorded in the Register of Deeds office. A lot shall include only one (1) principal building together with its accessory buildings; open spaces and parking spaces required by these regulations and shall have its principal frontage upon a road or other approved access.

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

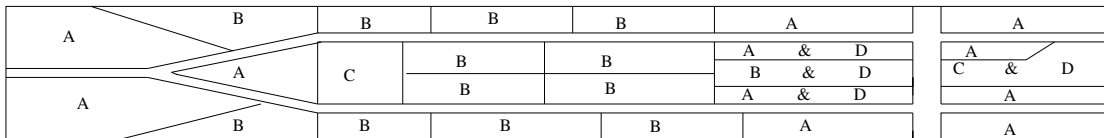
Lot Line. A line of record bounding a lot which divides one lot from another lot or from a public or private street or any other public space.

Lot Measurements.

1. **Depth:** The average mean horizontal distance between the front and rear lot lines.
2. **Width:** The width of a lot at the front yard line.
3. **Area:** The lot area is the area of a horizontal plane in square feet or acres within the lot line.

Lot of Record. A lot which is part of a subdivision recorded in the office of the Deuel Register of Deeds, prior to the adoption of this ordinance.

Lot Types. See figure below:



- A. **Corner Lot**, defined as a lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees.
- B. **Interior Lot**, defined as a lot other than a corner lot with only one frontage on a street.
- C. **Through Lot**, defined as a lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots.
- D. **Reversed Frontage Lot**, defined as a lot on which the frontage is at right angles or approximately right angles (interior angle less than 135 degrees) to the general pattern in the area. A reversed frontage lot may also be a corner lot (A-D in the diagram), and interior lot (B-D) or through lot (C-D).

Manufactured Home. See Section 4.11.02.

Manufactured Home Park. See Section 2.07.06.

Modular Home. See Section 4.11.01.

Moved-in Building. A building that previously existed on a lot of different location relocated for use as a residence, outbuilding, commercial, industrial or any building used in relation to these uses shall be recognized as a moved-in building.

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

Non-standard Use. The category of nonconformance consisting of lots occupied by buildings or structures or uses which existed immediately prior to the effective date of this ordinance which fail to comply with any of the following: minimum lot requirements for the area, density, width, front yard, side yard, rear yard, height, unobstructed open space, or parking for the district in

which they are located, even though the use of the premises conforms to the permitted uses within the district as set out in the provisions of this ordinance.

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

Overlay District. A set of zoning requirements that is described in the ordinance text, is mapped, and is imposed in addition to those of the underlying primary zone. Development within the overlay district must conform to the requirements of both the underlying primary zone and the overlay district or the more restrictive of the two.

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

Permit. A permit required by these regulations unless stated otherwise.

Permitted Use. Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

Person. In addition to an individual, includes the following terms: “firm,” “association,” “organization,” “partnership,” “trust,” “company,” or “corporation” joint venture, public service company, cooperative, political subdivision, municipal corporation, government agency, public utility district, or any other entity, public or private, however organized.

Personal Services. These establishments offer a wide range of personal services (laundry, hair care, etc.).

Planning Commission. The members appointed by the City Council to serve in an advisory capacity on planning and zoning matters.

Plat. The maps, drawings, or charts on which a subdivider's plan of subdivision is legally recorded.

Principal Use. The primary use to which the premises are devoted.

Recreational Vehicle. A motor home, travel trailer, truck camper, or camping trailer, with or without motor power, designed for human habitation for recreational or emergency occupancy. A recreational vehicle does not include manufactured homes.

Religious Institution. Any building used for non-profit purposes by an established religious organization holding either tax exempt status under Section 501(c)(3) of the Internal Revenue Code or under the state property tax law, where such building is primarily intended to be used as a place of worship. The term includes, but is not necessarily limited to: church, temple, synagogue, and mosque.

Route. The location of a High Voltage Transmission Line between two end points. The route may have a variable width of up to 1.25 miles.

Sale or Auction Yard or Barn. A place or building where the normal activity is to sell or exchange livestock. Livestock normally in yard or farm for one day during sale or auction.

Service Station, Automobile. Any building or premise which provides for the retail sale of gasoline, oil, tires, batteries, and accessories for motor vehicles and for certain motor vehicle services, including washings, tire changing, repair service, battery service, radiator service, lubrication, brake service, wheel service, and testing or adjusting of automotive parts. Automobile repair work may be done at a service station provided that no rebuilding of engines, spray paint operations, or body or fender repair is permitted. Gasoline pumps and gasoline pump islands shall be located more than twelve (12) feet from the nearest property line.

Setback: The setback of a building is the minimum horizontal distance between the front line or street line and the nearest edge of any building or any projection thereof, except cornices and unenclosed porches, and entrances vestibules and window bays projecting not more than three and one-half (3 1/2) feet from the building and not more than fifty (50) square feet in area, and which do not extend above the first story of the building.

Sheet Siding. Any siding material customarily installed as a sheet and composed of galvanized, painted or bonded metal, and customarily installed in a vertical manner but also capable of being installed horizontally.

Shopping Center. Retail buildings of greater than 100,000 square feet and designed for more than one tenant.

Sign. Any object, device, or structure, or part thereof, situated outdoors or visible from outdoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination, or projected images. This definition does not include:

1. National or state flags or their emblem or insignia, interior window displays, athletic scoreboards, or the official announcements or signs of government.
2. Signs not exceeding one (1) square foot in area and bearing only property numbers, post box numbers, names of occupants of premises, or other identification of premises not having commercial connotations;
3. Legal notices, identification, information, or directional signs erected or required by governmental bodies;
4. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts, or moving lights; and
5. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.

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

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

Sleeping Quarters. A room or an area contained within a dwelling unit utilized for the purpose of sleep.

Small Wind Energy Conversion System or SWECS. A WES facility with a single tower height of less than ninety (90) feet used primarily for on-site consumption of power. See graphic below:



Specified Anatomical Areas means.

1. Less than completely and opaquely covered human or animal genitals, pubic region, or pubic hair, buttocks; and female breasts below a point immediately above the top of the areola; and
2. Genitals of humans or animals in a discernible turgid state, even if completely opaquely covered.

Specified Sexual Activities means.

1. Human or animal genitals in the state of sexual stimulation or arousal.
2. Acts or representations of acts of human or animal masturbation, sexual intercourse or sodomy, bestiality, oral copulation or flagellation.
3. Fondling or erotic touching of human or animal genitals, pubic region, buttock or female breast.
4. Excretory functions as part of or in connection with any activities set forth in an Adult Bookstore or “Adult Entertainment Facility”.

Stable. A building for the shelter and feeding of domestic animals, especially horses and cattle.

Stable, Commercial. A building for the shelter and feeding of domestic animals, especially horses and cattle where such domestic animals are raised, trained, boarded, harbored, or kept for remuneration. Veterinary clinics, animal hospitals and animal shelters are specifically excluded.

Strip Malls. Retail buildings of less than 100,000 square feet and designed for more than one tenant.

Street. A public right-of-way which affords the principal means of access to abutting property. Also may be referred to as road or highway. The term street shall include and apply to any public way except alleys.

1. ***Arterial Street.*** A street designated as such upon the Major Street Plan of the Comprehensive Land Use Plan of the City of Clear Lake.
2. ***Collector Street.*** A street designated as such upon the Major Street Plan of the Comprehensive Land Use Plan of the City of Clear Lake.
3. ***Local Street.*** Any street which is not an arterial street or collector street.

Street Line. The line between the public right-of-way and private property.

Structure. Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, manufactured homes, walls, fences, swimming pools, signs, ponds and lagoons.

Structure, Temporary. Anything constructed or erected, or placed, the use of which requires temporary location on the ground or attached to something having a temporary location on the ground.

Subdivision. The division of a parcel of land into two or more lots or parcels for the purpose of transfer of ownership or building developments (whether immediate or future). This term includes resubdivision and, when appropriate to the context, is related to the process of subdividing or to the land subdivided.

Substantially Completed. This term refers to the amount of work required to be completed in association with a building permit issued by the City. In order to be substantially complete, seventy-five (75) percent of the project for which a building permit has been issued is required to be finished.

System Height. The height above grade of the tallest point of the WES, including the rotor radius.

Tower Height. The height above grade of the fixed portion of the tower, excluding the wind turbine itself

Trailer. Means any of the following:

1. ***Travel Trailer.*** A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational, and vacation uses. The trailer shall be permanently identified "travel trailer" by the manufacturer of the trailer and, when factory equipped for the road, it shall have a body width not exceeding eight (8) feet, and a body length not exceeding thirty (30) feet.
2. ***Pick-up Coach.*** A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation and vacation.
3. ***Motor-Home.*** A portable, temporary dwelling to be used for travel, recreation and vacation, constructed as an integral part of a self-propelled vehicle.
4. ***Camper Trailer.*** A canvas, folding structure, mounted on wheels and designed for travel, recreation and vacation use.

Turbine. The parts of the WES including the blades, generator and tail.

Twin Homes. A two-family dwelling which has a common wall and is platted into two (2) separate lots.

Utility. Any entity engaged in this state in the generation, transmission or distribution of electric energy including, but not limited to, a private investor owned utility, cooperatively owned utility, and a public or municipal utility.

Variance. A variance is a relaxation of the terms of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. As used in this ordinance, a variance is authorized only for height, area, and size of structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district.

Vertical axis wind turbine. Have the main rotor shaft arranged vertically and shall be used only for the purpose of generating power for the property on which the vertical axis wind turbine is located, or for the purpose of transmitting power to the electrical grid of an electric utility company through an approved interconnection. Vertical Axis wind turbines are either mounted on a tower, close to the ground, or directly on building roofs. See following graphics.



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

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

Wind Energy Conversion System or WECS. An aggregation of parts including the base, tower, generator, rotor, blades, supports, guy wires and accessory equipment such as utility

interconnections, battery banks and the like in such a configuration as necessary to convert the power of wind into mechanical or electrical energy. WECS are also known as wind chargers, windmills or wind turbines.

Yard. A required open space other than a court unoccupied and unobstructed by any structure or portion of a structure from thirty (30) inches above the general ground level of the graded lot upward, provided, however, that fences, walls, poles, posts, and other customary yard accessories, ornaments, and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility.

Yard, Front. A yard extending between side lot lines across the front of a lot adjoining a public right-of-way.

In the case of corner lots which do not have reversed frontage, a front yard of the required depth shall be provided in accordance with the prevailing yard pattern, and a second front yard of half the depth required generally for front yards in the districts shall be provided on the other frontage.

In the case of reversed frontage corner lots, a front yard of the required depth shall be provided on either frontage, and a second front yard of half the depth required generally for front yards in the district shall be provided on the other frontage.

In the case of corner lots with more than two frontages, the Administrative Official shall determine the front yard requirements, subject to the following limitations: (1) at least one front yard shall be provided having the full depth required generally in the district; and (2) no other front yard on such lot shall have less than half the full depth required generally.

Depth of required front yards shall be measured at right angles to a straight line joining the foremost points of the side lot lines. The foremost point of the side lot line, in the case of rounded property corners at street intersections, shall be assumed to be the point at which the side and front lot lines would have met without such rounding. Front and rear yard lines shall be parallel.

Yard Line. See Lot Line.

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

Yard, Side. A yard extending from the rear line or the required front yard to the rear lot line or in the absence of any clearly defined rear lot line to the point on the lot farthest from the intersection of the lot line involved with the public street. In the case of through lots and corner lots, side yards remaining after full and half-depth front yards have been established shall be considered side yards.

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