2011 REVISED SALEM ZONING REGULATIONS

Prepared by the South Eastern Council of Governments at the direction of the Planning Commission and City Council of the City of Salem, South Dakota

ORDINANCE NO. 583

AN ORDINANCE ADOPTING THE 2011 REVISED ZONING REGULATIONS FOR THE CITY OF SALEM, SOUTH DAKOTA.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SALEM, MCCOOK COUNTY, SOUTH DAKOTA:

Section 1: That this Ordinance rescinds Ordinance No. 514 and adopts the zoning regulations, as set forth in the attached document titled 2011 Revised Zoning Ordinance of the City of Salem; provides restrictions, district boundaries and zoning map; provides for the administration, enforcement and amendment of this Ordinance; and repeals any other ordinance or parts thereof in conflict with this Ordinance.

Dated this 11th day of July, 2011.

Kenneth Stoll
Mayor

ATTEST:

Ina Teuteuller
Finance Officer

(SEAL)

First Reading: May 9, 2011
Second Reading: July 11, 2011
Adoption: July 11, 2011
Publication Dates: July 14, 2011 & July 21, 2011 (Notice of Adoption)
Effective Date: August 10, 2011 (20 days after 2nd publication date of Notice of Adoption)

Public Notice

NOTICE OF ADOPTION
2011 REVISED SALEM ZONING REGULATIONS

Notice is hereby given that Ordinance No. 583, being the 2011 Revised Zoning Regulations of the City of Salem, South Dakota, was duly adopted by the City Council of the City of Salem on the 11th day of July, 2011, and that such Ordinance shall be in full force and effect on and after the 10th day of August, 2011, unless the referendum shall have been invoked. A copy of the 2011 Revised Salem Zoning Regulations is available for public review during regular business hours at the Salem City Hall.

Lori Heumiller, Finance Officer

Published twice at the total approximate cost of $14.50.

7-14,21

Printer's Affidavit of Publication

AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA)
)SS
COUNTY OF McCOOK)

TROY SCHWANS of said County and State, being first duly sworn on his oath, says THE SALEM SPECIAL is a weekly newspaper of general circulation, printed and published in Salem, McCook County and State of South Dakota, and has been such newspaper during the times hereinafter mentioned; that the said newspaper is a legal newspaper, that it has a bonafide circulation of more than 200 copies weekly, that it has been published within said County of McCook for more than fifty-two successive weeks prior to the publication of the notice hereinafter mentioned and has been printed during said period and at the present time, in whole in an office maintained at said place of publication; and that I, the undersigned, am publisher or employee of said newspaper, in charge of the advertising department thereof, and have personal knowledge of all facts in this affidavit;

that the advertisement headed.....
Notice of Adoption Legal Notice

a printed copy of which is hereto attached, was printed and published in the newspaper for. 2. weeks; that said notice was published in the issues of said paper on the dates as follows, to wit:

The first publication being made on
July 14 ,20 11.

the second publication on. July 21 ,20 11.

the third publication on. .....,20 ....

the fourth publication on. .....,20 ....

the fifth publication on. .....,20 ....

the sixth publication on. .....,20 ....

and the last publication on. .....,20 ....

that $ 14.50 being the full amount of the fees for publication of the annexed notice, insures solely to the benefit of the publisher of the said newspaper; that no agreement or understanding for a division thereof has been made with any person; and that no part thereof has been agreed to be paid to any person whomsoever.

Troy Schwans

Subscribed and sworn to before me this. 1st
day of. August ,20 11.

Tamara E. Paulsen

Notary Public, McCook County

My commission expires. 08-09-14

TAMARA E. PAULSEN
SEAL NOTARY PUBLIC SOUTH DAKOTA SEAL

Public Notice

NOTICE OF PUBLIC HEARING

Pursuant to SDCL 11-4-4, notice is hereby given that the Salem City Council will hold a Public Hearing on May 9, 2011, regarding adoption of the revised Salem Zoning Regulations. A copy of the proposed Salem Zoning Regulations is available for public review at the Salem City Hall in the office of the Finance Officer during regular business hours.

This City Council public hearing will be held at the following time, date and location:

7:15 P.M.
May 9, 2011
Salem City Hall

The purpose of this hearing is to explain the proposed revisions to the Salem Zoning Regulations to interested persons, to answer questions regarding this item, and to hear public comment on this item. The City Council invites all interested persons to attend and offer their comments. Those interested persons not able to attend are invited and encouraged to send written comments, prior to the hearing, to the Salem Finance Officer, PO Box 249, Salem, SD 57058.

In compliance with the Americans with Disabilities Act (ADA), if you need special assistance to participate in this hearing, please contact the Finance Officer at (605) 425-2301. Anyone who is deaf, hard-of-hearing or speech-disabled may utilize Relay South Dakota at (800) 877-1113 (TTY/Voice). Notification 48 hours prior to the hearing will enable the City to make reasonable arrangements to ensure accessibility to this hearing.

Lori Heumiller
Finance Officer

Published once at the total approximate cost of $16.93.

4-28

TAMARA E. PAULSEN
SEAL NOTARY PUBLIC SEAL
SOUTH DAKOTA

Printer's Affidavit of Publication

AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA)
)SS
COUNTY OF McCOOK)

TROY SCHWANS of said County and State, being first duly sworn on his oath, says THE SALEM SPECIAL is a weekly newspaper of general circulation, printed and published in Salem, McCook County and State of South Dakota, and has been such newspaper during the times hereinafter mentioned; that the said newspaper is a legal newspaper, that it has a bonafide circulation of more than 200 copies weekly, that it has been published within said County of McCook for more than fifty-two successive weeks prior to the publication of the notice hereinafter mentioned and has been printed during said period and at the present time, in whole in an office maintained at said place of publication; and that I, the undersigned, am publisher or employee of said newspaper, in charge of the advertising department thereof, and have personal knowledge of all facts in this affidavit;

that the advertisement headed.....
...~~Notice of~~.....
.....Revised Zoning legal Notice.....
.....

a printed copy of which is hereto attached, was printed and published in the newspaper for. . 1 . . weeks; that said notice was published in the issues of said paper on the dates as follows, to wit:

The first publication being made on
.....April 28 ..,20 11..

the second publication on.....,20....

the third publication on.....,20....

the fourth publication on.....,20....

the fifth publication on.....,20....

the sixth publication on.....,20....

and the last publication on.....,20....

that $ 16.93 . . . being the full amount of the fees for publication of the annexed notice, insures solely to the benefit of the publisher of the said newspaper; that no agreement or understanding for a division thereof has been made with ~~any person; and~~ that no part thereof has been agreed to be paid to any person whomsoever.

.....

Subscribed and sworn to before me this.....29th.....

day of.....April.....,20 11...

.....Tamara E. Paulsen.....

Notary Public,.....McCook..... County

My commission expires.....08-09-14.....

Public Notice

NOTICE OF PUBLIC HEARING

Pursuant to SDCL 11-4-12, notice is hereby given that the Salem Planning Commission will hold a Public Hearing on April 21, 2011, regarding adoption of the revised Salem Zoning Regulations. A copy of the proposed Salem Zoning Regulations is available for public review at the Salem City Hall in the office of the Finance Officer during regular business hours.

This Planning Commission public hearing will be held at the following time, date and location:

6:00 P.M.
April 21, 2011
Salem City Hall

The purpose of this hearing is to explain the proposed revisions to the Salem Zoning Regulations to interested persons, to answer questions regarding this item, and to hear public comment on this item. The Planning Commission invites all interested persons to attend and offer their comments. Those interested persons not able to attend are invited and encouraged to send written comments, prior to the hearing, to the Salem Finance Officer, PO Box 249, Salem, SD 57058.

In compliance with the Americans with Disabilities Act (ADA), if you need special assistance to participate in this hearing, please contact the Finance Officer at (605) 425-2301. Anyone who is deaf, hard-of-hearing or speech-disabled may utilize Relay South Dakota at (800) 877-1113 (TTY/Voice). Notification 48 hours prior to the hearing will enable the City to make reasonable arrangements to ensure accessibility to this hearing.

Lori Heumiller
Finance Officer

Pubished once at the total approximate cost of $17.30.

4-7

TAMARA E. PAULSEN
SEAL NOTARY PUBLIC SOUTH DAKOTA SEAL

Printer's Affidavit of Publication

AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA)
)SS
COUNTY OF McCOOK)

TROY SCHWANS of said County and State, being first duly sworn on his oath, says THE SALEM SPECIAL is a weekly newspaper of general circulation, printed and published in Salem, McCook County and State of South Dakota, and has been such newspaper during the times hereinafter mentioned; that the said newspaper is a legal newspaper, that it has a bonafide circulation of more than 200 copies weekly, that it has been published within said County of McCook for more than fifty-two successive weeks prior to the publication of the notice hereinafter mentioned and has been printed during said period and at the present time, in whole in an office maintained at said place of publication; and that I, the undersigned, am publisher or employee of said newspaper, in charge of the advertising department thereof, and have personal knowledge of all facts in this affidavit;

that the advertisement headed. . . . . .
Notice of Hearing Legal Notice
. . . . . .
. . . . . .

a printed copy of which is hereto attached, was printed and published in the newspaper for. . 1. . weeks; that said notice was published in the issues of said paper on the dates as follows, to wit:

The first publication being made on
. . . . . April 7 . . . . . ,20 11 . .

the second publication on. . . . . ,20 . . . .

the third publication on. . . . . ,20 . . . .

the fourth publication on. . . . . ,20 . . . .

the fifth publication on. . . . . ,20 . . . .

the sixth publication on. . . . . ,20 . . . .

and the last publication on. . . . . ,20 . . . .

that $17.30 . . . . being the full amount of the fees for publication of the annexed notice, insures solely to the benefit of the publisher of the said newspaper; that no agreement or understanding for a division thereof has been made with any person, and that no part thereof has been agreed to be paid to any person whomsoever.

. . . . . .

Subscribed and sworn to before me this. . . . . 29th . . . . . .

day of. . . . . April . . . . . ,20 . 11 . .

. . . . . Tamara E. Paulsen . . . . . .

Notary Public,. . . . . McCook . . . . . County

My commission expires. . . . . 08-09-14 . . . . . .

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1

GENERAL PROVISIONS

1.01 Title and Application

These regulations shall be referred to as the 2011 Revised Zoning Ordinance of the City of Salem.

1.02 Jurisdiction

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

1.03 Purpose

These regulations have been based upon the Salem Comprehensive Plan adopted and in conformance with Chapter 11-4 and 11-6 of South Dakota Codified Laws. These regulations are designed to carry out the goals, objectives, and policies of the Comprehensive Plan.

The Zoning Ordinance is intended:

* to lessen congestion in the streets;
* to secure safety from fire, panic and other dangers;
* to promote health and the general welfare;
* to provide adequate light and air;
* to prevent overcrowding of land;
* to avoid undue concentrations of population; and
* to facilitate the adequate provision of transportation, water, sewers, school, parks and other public necessities.

1.04 Provisions of Ordinance Declared to be Minimum Requirements

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

1.05 Penalties for Violation

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violations of conditions established in the granting of Variances, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction be subject to the penalties established by South Dakota law. Each day such violation continues shall be considered a separate offense.

The owner or tenant of any building, structure or premises, any architect, builder, contractor, agent or other person who commits, maintains, assists in or participates in such violation may be found guilty of a separate offense and suffer the penalties provided.

1.06 Separability Clause

Should any 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.

1.07 Repeal of Conflicting Ordinances

All prior ordinances or parts of prior ordinances in conflict with this ordinance are hereby declared repealed.

1.08 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 Salem, as provided for by South Dakota law.

2

DISTRICTS AND BOUNDARIES

2.01 Districts Designated

The City is hereby divided into the following districts:

NRC	Flood Plain / Conservation
R-1	Residential - Single Family
R-2	Residential - Manufactured Housing
CB	Central Business
GB	General Business
LI	Light Industrial
HI	Heavy Industrial
PD	Planned Development

2.02 Adoption of Official Zoning Map

The Official Zoning Map for the City of Salem, on record with the Finance Officer, is hereby adopted by reference and declared to be a part of this ordinance.

2.03 Changes to Official Zoning Map

Changes to or replacement of the Official Zoning Map shall require amendment of these regulations by ordinance, as provided for in 17.01 of these regulations.

2.04 Interpretation of District Boundaries

Where uncertainty exists as to the boundaries of the districts as shown on the Official Zoning Map, the following rules shall apply:

A. Boundaries indicated as approximately following platted lot lines or city limits shall be interpreted to follow such platted lot lines or municipal limits;

B. Boundaries indicated as approximately following railroad lines shall be interpreted to be midway between the main tracks;

C. Boundaries indicated as approximately following the center lines of streets or other rights-of-way, or streams or other bodies of water, shall be interpreted to follow such center lines;

D. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, the Board of Adjustment, as established in Chapter 16, shall interpret the district boundaries;

E. Where a district boundary line divides a lot which was in single ownership at the time of passage of this ordinance, the Board of Adjustment may permit, as a Conditional Use Permit the extension of the regulations for either portion of the lot into the remaining portion of the lot.

2.05 Annexations

In all territories which may hereafter be annexed to the City, the zoning districts as they exist in McCook County shall be continued until otherwise changed by ordinance.

3

NRC: NATURAL RESOURCE CONSERVATION DISTRICT

The purpose of this district is to preserve lands best suited for natural drainage areas, public open space, and agricultural uses from encroachment by incompatible uses. The area will also provide protection from floods and erosion, to protect views, to preserve natural settings for wildlife habitats, to add to the aesthetic quality of the community, and to lessen the urban density.

3.01 Permitted Uses

Permitted Use	Applicable Standards
Agriculture	11.02
Single-family farm dwelling	11.02, 11.04, 11.10, 11.11 and not within identified floodplain area
Public parks and trails	11.02, 11.04, 11.06, 11.11
Golf course	11.02, 11.04, 11.06 One freestanding sign as allowed within 11.06
Electrical substation	An opaque screen, six feet in height located at all setback lines 11.02, 11.11
Public utility facility	11.02, 11.04, 11.06, 11.11 One freestanding sign as allowed within 11.06
Cemetery	At least 2 acres in size and adequate road system within cemetery 11.02 & not within an identified floodplain area One freestanding sign as allowed within 11.06
Fence	11.08
Bed and breakfast establishment	11.06, 11.14 & all applicable farm dwelling standards One freestanding sign as allowed within 11.06

Permitted Use	Applicable Standards
Public service facility	11.02, 11.04, 11.06, 11.11 One freestanding sign as allowed within 11.06
Accessory use and structure (i.e. garage, shed)	11.03 *(see definition)*
Home occupation	11.12(A)

3.02 Conditional Uses

Conditional Use	Applicable Standards
One additional single-family dwelling or manufactured home	Said dwelling shall be located within the farmstead perimeter All farm dwelling, single family requirements apply Not within an identified floodplain area 11.13(A), 18.01
Wireless communication facility on existing support structure	11.09, 18.01 & not within an identified floodplain area
Major home occupation	11.12(B), 18.01

3.03 Lot and Yard Regulations

All measurements shall be taken from the lot line to the building line (see definitions). A parking lot is not included as a portion of a side yard or rear yard (see 11.04).

	Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard	Maximum Height
All Uses	1 acre	150 feet	50 feet	30 feet	30 feet	35 feet

Exceptions

#1 See Adjustment to Yard Regulations (Chapter 12) for specific exceptions.

4

R-1: RESIDENTIAL DISTRICT

The purpose of this district is to provide for certain low density residential areas the City has now developed primarily with single-family, two-family and multiple-family dwellings and where similar development is likely to occur.

4.01 Permitted Uses

Permitted Use	Applicable Standards
Single-family detached dwelling	11.02, 11.04, 11.10, 11.11
Church	All parking lots being 8 feet from all residential properties One of the principle frontages shall abut upon an arterial or collector street 11.02, 11.06, 11.04, 11.11 One freestanding sign as allowed within 11.06
Public parks and trails	11.02, 11.04, 11.06, 11.11
School	All parking lots being 8 feet from all residential properties One of the principle frontages shall abut upon an arterial or collector street 11.02, 11.04, 11.06, 11.11 One freestanding sign as allowed within 11.06
Neighborhood utility facility	11.02
Electrical substation	An opaque screen, six feet in height located at all setback lines 11.11, 11.02
Accessory structure (i.e. garage, shed)	11.03, 11.02 *(see definition)*
Fence	11.08
Home occupation	11.12

4.02 Conditional Uses

Conditional Use	Applicable Standards
Single-family attached dwelling (up to 2)	11.02, 11.04, 11.10, 11.11, 18.01 (this includes town homes and duplexes)
Multiple-family dwelling	11.02, 11.04, 11.06, 11.10, 11.11, 18.01 One freestanding sign as allowed within 11.06
Manufactured home not in an approved manufactured home park	11.02, 11.04, 11.11, 11.13(A), 18.01
Group day care	A safe pickup and drop off area must be provided for the children All single family standards apply 18.01
Bed and breakfast establishment	11.06, 11.14, 18.01 & all single-family detached dwelling standards One freestanding sign as allowed within 11.06
Major home occupation	11.12(B), 18.01
Group Home (see definition)	18.01 Structure must be a single housekeeping unit Applicant must provide copy of state agency license All single-family detached dwelling standards apply
Day care center	Adequate and safe playground area with a fence four (4) feet high (see 11.08) 11.02, 11.04, 11.05, 11.06, 11.11, 18.01
Public service facility	11.02, 11.04, 11.06, 11.11, 18.01 One freestanding sign as allowed within 11.06
Public utility facility	11.02, 11.04, 11.06, 11.11, 18.01 One freestanding sign as allowed within 11.06
Wireless communication facility on existing support structure	11.02, 11.04, 11.05, 11.06, 11.11, 18.01
Private garage (as a principal use)	18.01

Nursing home	11.02, 11.04, 11.06, 11.11, 18.01 One freestanding sign as allowed within 11.06
Assisted living center	11.02, 11.04, 11.06, 11.11, 18.01 One freestanding sign as allowed within 11.06

4.03 Lot and Yard Regulations

All measurements shall be taken from the lot line to the building line (see definitions). A parking lot is not included as a portion of a side yard or rear yard (see 11.04). Lot coverage shall not exceed 50% in R-1 Districts.

	Lot Area	**Lot Width**	**Front Yard**	**Side Yard**	**Rear Yard**	**Maximum Height**
Single-family detached	5,000 sq. ft.	60 feet see #1	25 feet see #4	5 feet	20 feet	35 feet
Single-family attached (2) 2 lots	4,350 sq. ft.	25 feet	25 feet see #4	0' or 5' on nonparty wall side	20 feet	35 feet
Single-family attached (2) 1 lot	8,700 sq. ft.	60 feet	25 feet see #4	0' or 5' on nonparty wall side	20 feet	35 feet
Multiple-family dwellings (3 or more dwelling units)	3,000 sq. ft. per dwelling unit	60 feet	25 feet see #4	5 feet	10 feet	45 feet
Manufactured Home	5,000 sq. ft.	60 feet see #1	25 feet see #4	5 feet	20 feet	35 feet
All other uses	7,500 sq. ft.	75 feet	25 feet see #4	15 feet	20 feet	35 feet

<u>Exceptions</u>

#1 A residence may be constructed on a lot-of-record which has a lot width of less than 60 feet.

#2 For a lot located on a cul-de-sac bulb, the required lot width will be measured at the required front yard setback line; however, the minimum lot width at the right-of-way line shall not be less than 50 feet.

#3 There shall be a required front yard on each street side of a double-frontage lot. There shall be a required front yard on each street side of a corner lot.

#4 The side-street-side front yard may be reduced to 20 feet on corner lots.

#5 See also Adjustment to Yard Regulations (Chapter 12) for other specific exceptions.

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5

R-2: MANUFACTURED HOUSING RESIDENTIAL DISTRICT

The purpose of this district is to provide for high density residential areas in the City that may be developed for all types of manufactured housing and support facilities.

5.01 Permitted Uses

Permitted Use	Applicable Standards
Manufactured homes in approved manufactured home parks	11.02, 11.04, 11.11, 11.13(B) Municipal code regulations regarding manufactured home parks
Electrical substation	An opaque screen, six feet in height, located at all setback lines 11.11, 11.02
Neighborhood utility facility	11.02
Accessory structure (i.e. garage, shed)	11.03 *(see definition)*

5.02 Conditional Uses

Conditional Use	Applicable Standards
Manufactured home park	11.02, 11.04, 11.11, 11.13(B), 18.01 Municipal code regulations regarding manufactured home parks
Church	One of the principle frontages shall abut upon an arterial or collector street 11.02, 11.04, 11.11, 18.01 One freestanding sign as allowed within 11.06

Conditional Use	Applicable Standards
School	One of the principle frontages shall abut upon an arterial or collector street 11.02, 11.04, 11.11, 18.01 One freestanding sign as allowed within 11.06
Group day care	A safe pickup and drop off area must be provided for the children 18.01
Group home	Structure must be a single housekeeping unit Applicant must provide copy of state agency license 18.01
Public service facility	11.02, 11.04, 11.06, 11.11, 18.01 One freestanding sign as allowed within 11.06

5.03 Lot and Yard Regulations

All measurements shall be taken from the lot line to the building line (see definitions). A parking lot is not included as a portion of a side yard or rear yard (see 11.04).

1. Each manufactured home park shall be at least five (5) acres.
2. The approved manufactured home park shall be surrounded by a landscaped area 25 feet wide along all public streets and all manufactured home park boundaries.
3. The entrance to the manufactured home park shall be allowed one freestanding sign as allowed for specified uses in 11.06.

	Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard	Maximum Height
Residential Uses	6,000 sq. ft.	60 feet	25 feet	5 feet **	20 feet	35 feet
Corner Lots	6,000 sq. ft.	60 feet	25 feet *	5 feet **	20 feet	35 feet
All Other Uses	6,000 sq. ft.	60 feet	25 feet	15 feet	20 feet	35 feet

* One required front yard may be reduced to 20 feet.

** The side yard will be required to be increased to 10 feet when the building is 3 stories in height or more.

Exception

#1 See also Adjustment to Yard Regulations (Chapter 12) for other specific exceptions.

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6

CB: CENTRAL BUSINESS DISTRICT

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

6.01 Permitted Uses

Permitted Use	Applicable Standards
Retail trade or service	11.02, 11.04, 11.05, 11.06, 11.11
Office	11.02, 11.04, 11.05, 11.06, 11.11
Personal service	11.02, 11.04, 11.05, 11.06, 11.11
Hotel/motel	11.02, 11.04, 11.05, 11.06, 11.11
Gasoline dispensing station	11.02, 11.04, 11.05, 11.06, 11.11
Public utility facility	11.02, 11.04, 11.05, 11.06, 11.11
Mortuary	11.02, 11.04, 11.05, 11.06, 11.11
Private club	11.02, 11.04, 11.05, 11.06, 11.11
Churches	11.02, 11.04, 11.05, 11.06, 11.11
Arcade	11.02, 11.04, 11.05, 11.06, 11.11
Rooming /boarding house	Subject to the residence being constructed above the first floor 11.02, 11.04, 11.06, 11.11
Motor vehicle service station	Gasoline pumps and gasoline pump islands shall be located more than 15 feet from the nearest property line 11.02, 11.04, 11.05, 11.06, 11.11
Accessory use **(i.e. garage & shed)**	11.03, 11.02 *(see definition)*

Permitted Use	Applicable Standards
Fence	11.08
Commercial parking lots/parking ramp	11.02, 11.04, 11.06, 11.11
Public service facility	11.02, 11.04, 11.06, 11.11
Nursing home	11.02, 11.04, 11.06, 11.11
Assisted living center	11.02, 11.04, 11.06, 11.11

6.02 Conditional Uses

Conditional Use	Applicable Standards
Dwelling	Being above the first floor 11.02, 11.04, 11.06, 11.11, 18.01
Adult oriented business	11.02, 11.04, 11.05, 11.06, 11.11, 18.01 & SDCL 11-12-2 & 11-12-3
Electrical substation	An opaque screen, six feet in height, located at setback lines 11.02, 11.11, 18.01
Wireless communication facility on existing support structure	11.09, 18.01
Day care center	Adequate and safe playground area with a fence four (4) feet high (see 11.08) 11.02, 11.04, 11.05, 11.06, 11.11, 18.01
Motor vehicle repair shop	Subject to an adequate number of parking spots to allow temporary storage of the cars only while being repaired, not exceeding twenty-one (21) days. 11.02, 11.04, 11.05, 11.06, 11.11, 18.01
On-sale alcoholic beverage establishment	11.02, 11.04, 11.05, 11.06, 11.11, 18.01
Telecommunications tower	11.02, 11.04, 11.06, 11.09, 11.11, 18.01
Motor vehicle sales, display, and service	11.02, 11.04, 11.05, 11.06, 11.11, 18.01

Conditional Use	Applicable Standards
Frozen food locker	11.02, 11.04, 11.05, 11.06, 11.11, 18.01

6.03 Lot and Yard Regulations

All measurements shall be taken from the lot line to the building line (see definitions). A parking lot is not included as a portion of a side yard or rear yard (see 11.04).

A. The average front and rear yard setback existing on each street shall apply.

B. There are no side yard, lot area, or maximum height restrictions.

C. See also Adjustment to Yard Regulations (Chapter 12) for specific exceptions.

7

GB: GENERAL BUSINESS DISTRICT

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

7.01 Permitted Uses

Permitted Use	Applicable Standards
Retail trade or service	11.02, 11.04, 11.05, 11.06, 11.11
Office	11.02, 11.04, 11.05, 11.06, 11.11
Personal service	11.02, 11.04, 11.05, 11.06, 11.11
Hotel/motel	11.02, 11.04, 11.05, 11.06, 11.11
Motor vehicle service station/gas dispensing station	11.02, 11.04, 11.05, 11.06, 11.11
Printing plant	11.02, 11.04, 11.05, 11.06, 11.11
Hospital/clinic	11.02, 11.04, 11.05, 11.06, 11.11
Public utility facility	11.02, 11.04, 11.05, 11.06, 11.11
Mortuary	11.02, 11.04, 11.05, 11.06, 11.11
Private club	11.02, 11.04, 11.05, 11.06, 11.11
Church	All parking lots being 8 feet from all residential properties 11.02, 11.04, 11.05, 11.06, 11.11
Arcade	11.02, 11.04, 11.05, 11.06, 11.11
Greenhouse/nursery	11.02, 11.04, 11.05, 11.06, 11.11
Drive-in theater	11.02, 11.04, 11.05, 11.06, 11.11

Permitted Use	Applicable Standards
Car wash	Five storage spaces for each bay beyond off-street parking requirements and the water from the car wash contained on the site 11.02, 11.04, 11.05, 11.06, 11.11
Motor vehicle sales, display, and service	11.02, 11.04, 11.05, 11.06, 11.11
Farm store, feed store	Subject to only accessory storage of fertilizer or farm chemicals on the site 11.02, 11.04, 11.05, 11.06, 11.11
Commercial recreation facility	11.02, 11.04, 11.05, 11.06, 11.11
Accessory use (i.e. garage, shed)	11.03, 11.02 *(see definition)*
Commercial parking lots/parking ramp	11.02, 11.04, 11.06, 11.10, 11.11
Public service facility	11.02, 11.04, 11.06, 11.11
Nursing home	11.02, 11.04, 11.06, 11.11
Assisted living center	11.02, 11.04, 11.06, 11.11

7.02 Conditional Uses

Conditional Use	Applicable Standards
Adult oriented business	11.02, 11.04, 11.05, 11.06, 11.11, 18.01 & SDCL 11-12-2,3
Electrical substation	An opaque screen, six feet in height, located at setback lines 11.02, 11.11, 18.01
Dwelling	Being above the first floor 11.02, 11.04, 11.06, 11.11, 18.01
On-sale alcoholic beverage establishment	11.02, 11.04, 11.05, 11.06, 11.11, 18.01
Wireless communication facility on existing support structure	11.09, 11.02, 11.04, 11.06, 11.11, 18.01

Conditional Use	Applicable Standards
Telecommunications tower	11.09, 11.02, 11.04, 11.06, 11.11, 18.01
Day care center	Adequate and safe playground area with fence four feet high 11.02, 11.04, 11.05, 11.06, 11.11, 18.01
Motor vehicle repair shop	Subject to an adequate number of parking spots to allow temporary storage of the cars only while being repaired, not exceeding twenty-one (21) days. 11.02, 11.04, 11.05, 11.06, 11.11, 18.01
Off-premise sign	11.02, 11.07, 18.01
Veterinarian	No outdoor kenneling of dogs within 1,000 feet of a residential area * 11.02, 11.04, 11.05, 11.06, 11.11, 18.01
Bus passenger terminal	11.02, 11.04, 11.05, 11.06, 11.11, 18.01
Lumberyard	Subject to screening of all parts and accessories from view 11.02, 11.04, 11.05, 11.06, 11.11, 18.01
Farm implement sales, display, and service	Subject to the screening of all outdoor storage from view 11.02, 11.04, 11.05, 11.06, 11.11, 18.01
Bus/truck terminal	11.02, 11.04, 11.05, 11.06, 11.11, 18.01
Broadcast tower	Subject to being located at least 300 feet from a residential district * 11.02, 11.09, 11.11, 18.01
Campground	Lot must contain at least 2,000 square feet and supplied with city water and sanitary sewer services; access road on the campground site shall be paved or surfaced in a similar manner to the adjacent public roads, shall be approved by the City, and shall be 14 feet for one way and 20 feet for two way roads 11.02, 11.04, 11.05, 11.06, 11.11, 18.01
Kennel	Located 500 feet from residential district * 11.02, 11.04, 11.05, 11.06, 11.11, 18.01
Frozen food locker	11.02, 11.04, 11.05, 11.06, 11.11, 18.01

Conditional Use	Applicable Standards
Mini-warehouse	The materials stored on the premises shall have a level 1 or below in the Fire Protection Guide on Hazardous Materials 11.02, 11.04, 11.05, 11.06, 11.11, 18.01

* measured from the closest point of the outside walls of both structures

7.03 Lot and Yard Regulations

All measurements shall be taken from the lot line to the building line (see definitions). A parking lot is not included as a portion of a side yard or rear yard (see 11.04).

	Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard	Maximum Height
All Uses	NA	0 to 50 feet	15 feet see #3	7 feet see #1, 3	5 feet see #2	45 feet
All Uses	NA	51 to 100 feet	20 feet see #3	7 feet see #1, 3	5 feet see #2	45 feet
All Uses	NA	101 or more feet	25 feet see #3	7 feet see #1, 3	5 feet see #2	45 feet

Exceptions

#1 A side yard of 15 feet shall be required where a lot is adjacent to or abuts a residential district.

#2 A rear yard of 20 feet shall be required where a lot is adjacent to or abuts a residential district.

#3 There shall be a required front yard on each street side of a double frontage lot. There shall be a required front yard on each street side of a corner lot.

#4 See also Adjustment to Yard Regulations (Chapter 12) for other specific exceptions.

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8

LI: LIGHT INDUSTRIAL DISTRICT

This district is intended to provide for a number of light manufacturing, wholesale, warehousing, and service uses in an attractive industrial park-like setting.

8.01 Permitted Uses

Permitted Use	Applicable Standards
Wholesale trade	11.02, 11.04, 11.05, 11.06, 11.11
Light manufacturing	11.02, 11.04, 11.05, 11.06, 11.11
Contractor's shop/storage yard	11.02, 11.04, 11.05, 11.06, 11.11 Subject to screening of all outdoor storage from view
Office	11.02, 11.04, 11.05, 11.06, 11.11
Public utility facility	11.02, 11.04, 11.05, 11.06, 11.11
Frozen food locker	11.02, 11.04, 11.05, 11.06, 11.11
Wireless communication facility on existing support structure	11.09, 11.02, 11.04, 11.05, 11.06, 11.11
Printing plant	11.02, 11.04, 11.05, 11.06, 11.11
Motor vehicle service station	11.02, 11.04, 11.05, 11.06, 11.11
Electrical substation	Opaque screen, six feet in height, located as far back as all setback lines 11.02, 11.11
Warehouse, mini-warehouse	The materials stored on the premises shall have a level 1 or below in the Fire Protection Guide on Hazardous Materials 11.02, 11.04, 11.05, 11.06, 11.11
Lumberyard	11.02, 11.04, 11.05, 11.06, 11.11

Permitted Use	Applicable Standards
Retail trade or service	Only when it is an accessory use when in conjunction with the primary use of wholesaling or manufacturing 11.02, 11.04, 11.05, 11.06, 11.11
Truck or bus wash	All water from the truck or bus wash being contained on the site 11.02, 11.04, 11.05, 11.06, 11.11
Farm store or feed store	Only accessory storage of fertilizer or farm chemicals on the site 11.02, 11.04, 11.05, 11.06, 11.11
Farm implement sales, display, and service	11.02, 11.04, 11.05, 11.06, 11.11
Public service facility	11.02, 11.04, 11.06, 11.11
Motor vehicle repair shop	An adequate number of parking spots to store the cars and screen parts and materials from view 11.02, 11.04, 11.05, 11.06, 11.11
Accessory structure (i.e. garage, shed)	11.03 *(see definition)*

8.02 Conditional Uses

Conditional Use	Applicable Standards
Telecommunications tower	11.09, 11.02, 11.04, 11.05, 11.06, 11.11, 18.01
Off-premise sign	11.02, 11.07, 18.01
Bus/truck terminal	11.02, 11.04, 11.05, 11.06, 11.11, 18.01
Recycling collection or processing facility	Screening of all recyclable material from view 11.02, 11.04, 11.05, 11.06, 11.11, 18.01
Automobile storage yard	Screening of the storage yard with fence, berm vegetation or placement on the lot 11.02, 11.04, 11.05, 11.06, 11.11, 18.01

Conditional Use	Applicable Standards
Broadcast tower	Located at least 300 feet from a residential district 11.02, 11.04, 11.05, 11.06, 11.11, 18.01
Wind energy conversion system	11.15, 11.02, 11.04, 11.05, 11.06, 11.11, 18.01

8.03 Lot and Yard Regulations

All measurements shall be taken from the lot line to the building line (see definitions). A parking lot is not included as a portion of a side yard or rear yard (see 11.04).

	Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard	Maximum Height
All Uses	NA	75 feet	25 feet see #3	10 feet see #2	25 feet	45 feet see #1

Exceptions

#1 A conditional use permit will be required for any structure having a maximum height exceeding 45 feet. (See 18.01)

#2 A side yard of 25 feet shall be required where a lot is adjacent to or abuts a residential district.

#3 There shall be a required front yard on each street side of a double frontage lot. There shall be a required front yard on each street side of a corner lot.

#4 See also Adjustment to Yard Regulations (Chapter 12) for other specific exceptions.

#5 Waste water treatment facilities are exempt from minimum yard or set back requirements.

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HI: HEAVY INDUSTRIAL DISTRICT

This district is intended to provide for general industrial uses which may create some nuisance and which are not properly associated with, nor compatible with residential, office, or commercial establishment. All uses in this district shall comply with any state or local regulations regarding noise, emissions, dust, odor, glare, vibration or heat when applicable.

9.01 Permitted Uses

Permitted Use	Applicable Standards
Wholesale trade	11.02, 11.04, 11.05, 11.06, 11.11
General manufacturing other than those listed below	11.02, 11.04, 11.05, 11.06, 11.11
Farm store or feed store	11.02, 11.04, 11.05, 11.06, 11.11
Contractor's shop/storage yard	11.02, 11.04, 11.05, 11.06, 11.11 Subject to screening of all outdoor storage from view
Public utility facility	11.02, 11.04, 11.05, 11.06, 11.11
Frozen food locker	11.02, 11.04, 11.05, 11.06, 11.11
Wireless communication facility on existing support structure	11.02, 11.04, 11.05, 11.06, 11.11
Electrical substation	An opaque screen, six feet in height, must be located as far back as all setback lines 11.02, 11.11
Retail trade or service	Being an accessory use when in conjunction with a primary use of wholesaling or manufacturing 11.02, 11.04, 11.05, 11.06, 11.11

Permitted Use	Applicable Standards
A warehouse or mini-warehouse	Subject to the materials stored on the premises shall have a level 1 or below in the Fire Protection Guide on Hazardous Materials 11.02, 11.04, 11.05, 11.06, 11.11
Bus and truck wash	All water from the truck or bus wash being contained on the site 11.02, 11.04, 11.05, 11.06, 11.11
Fruit and vegetable canning and processing	Traffic to and from the facility will not travel on residential streets and the odor will not impact residential neighborhoods 11.02, 11.04, 11.05, 11.06, 11.11
Refining	Traffic to and from the facility will not travel on residential streets and the location shall not be located within ½ mile of a residential area 11.02, 11.04, 11.05, 11.06, 11.11
Motor vehicle repair shop	An adequate number of parking spots to store the cars and screen parts and materials from view 11.02, 11.04, 11.05, 11.06, 11.11
Accessory structure (i.e. garage, shed)	11.03 *(see definition)*
Airport	Traffic to and from the airport will not travel on residential streets and the location will not be within ½ mile of a residential district 11.02, 11.04, 11.05, 11.06, 11.11
Public service facility	11.02, 11.04, 11.06, 11.11

9.02 Conditional Uses

Conditional Use	Applicable Standards
Bus/truck terminal	11.02, 11.04, 11.05, 11.06, 11.11, 18.01
Telecommunications tower	11.02, 11.04, 11.05, 11.06, 11.11, 18.01
Off-premise sign	11.02, 11.07, 18.01

Conditional Use	Applicable Standards
Recycling collection facility	Subject to any outdoor storage of recyclable materials must be within an opaque screened area at least six feet in height 11.02, 11.04, 11.05, 11.06, 11.11, 18.01
Manufacture of: acid, alcohol, ammonia, asphalt, bleach, cement, chlorine, dyestuffs, explosives, fertilizer, glue, gypsum, lime, oils, paint, plaster or paris, shellac, sizing, turpentine or yeast	Traffic to and from the facility will not travel on residential streets and the odor will not impact residential neighborhoods 11.02, 11.04, 11.05, 11.06, 11.11, 18.01
Stockyards/slaughtering of animals	Subject to traffic to and from the facility will not travel on residential streets and the odor will not impact residential neighborhoods 11.02, 11.04, 11.05, 11.06, 11.11, 18.01
Rendering	Traffic to and from the facility will not travel on residential streets and the location shall not be located within ½ mile of a residential area 11.02, 11.04, 11.05, 11.06, 11.11, 18.01
Distillation of products	Traffic to and from the facility will not travel on residential streets and the odor will not impact residential neighborhoods 11.02, 11.04, 11.05, 11.06, 11.11, 18.01
Paper manufacturing **Smelting** **Boilerworks**	Traffic to and from the facility will not travel on residential streets and the location shall not be located within ½ mile of a residential area 11.02, 11.04, 11.05, 11.06, 11.11, 18.01
Tank farm; petroleum products terminal	Traffic to and from the facility will not travel on residential streets and the odor will not impact residential neighborhoods 11.02, 11.04, 11.05, 11.06, 11.11, 18.01
Grain terminal; grain processing	Traffic to and from the facility will not travel on residential streets and the odor will not impact residential neighborhoods 11.02, 11.04, 11.05, 11.06, 11.11, 18.01

Conditional Use	Applicable Standards
Salvage yard	Being sited off the main thoroughfares of the City, ½ mile from a residential district and be screened from view; the owner shall agree to control rodents as a condition of the permit 11.02, 11.04, 11.05, 11.06, 11.11, 18.01
Manufacture and storage of electric transformers	Chemicals associated with the transformers will be contained in an acceptable manner 11.02, 11.04, 11.05, 11.06, 11.11, 18.01
Quarry	Subject to the site being located at least 1,000 feet from commercial or residential properties 11.02, 11.04, 11.05, 11.06, 11.11, 18.01
Automobile storage yard	Screening of the storage yard with fence, berm, vegetation or placement on the lot 11.02, 11.04, 11.05, 11.06, 11.11, 18.01
Recycling processing facility	Any outdoor storage of recyclable materials must be within an opaque screened area at least six feet in height and all processing operations must be fully enclosed 11.02, 11.04, 11.05, 11.06, 11.11, 18.01
Broadcast tower	Being located at least 300 feet from a residential district 11.02, 11.04, 11.05, 11.06, 11.11, 18.01
Solid waste transfer facility	Screening of the storage area with fence, berm, vegetation or placement on the lot Traffic to and from the facility will not travel on residential streets and the location shall not be located within ½ mile of a residential area 11.02, 11.04, 11.05, 11.06, 11.11, 18.01
Wind energy conversion system	11.15, 11.02, 11.04, 11.05, 11.06, 11.11, 18.01

9.03 Lot and Yard Regulations

All measurements shall be taken from the lot line to the building line (see definitions). A parking lot is not included as a portion of a side yard or rear yard (see 11.04).

	Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard	Maximum Height
All Uses	NA	NA	25 feet see #2, 3	15 feet	25 feet	55 feet see #1

Exceptions

#1 A conditional use permit will be required for any structure having a maximum height exceeding 55 feet. (See 18.01)

#2 There shall be a required front yard on each street side of a double frontage lot. There shall be a required front yard on each street side of a corner lot.

#3 A front yard of 40 feet shall be required if any structure exceeds 30 feet.

#4 See also Adjustment to Yard Regulations (Chapter 12) for other specific exceptions.

10

PD: PLANNED DEVELOPMENT DISTRICT

It is the intent of this district to provide flexibility from conventional zoning regulations with increased public review for planned development district projects in order to:

A. Encourage well-planned, efficient urban development.

B. Allow a planned and coordinated mix of land uses which are compatible and are harmonious, but previously discouraged by conventional zoning procedures.

C. Encourage more creative, higher quality and more ecologically sensitive urban design with special consideration given to projects which incorporate desirable design features, including but not limited to underground parking, orientation or design to take advantage of solar energy, environmental preservation, historic preservation, handicapped accessible structures, unique use of open spaces or other desirable design features.

D. Improve communication and cooperation among the City of Salem, land developers, and interested residents in the urbanization of new lands and the renewal of existing deteriorated areas.

10.01 Compliance with Comprehensive Plan

The developments within the planned development district shall comply with the policies and design standards of the Salem Comprehensive Plan. Said development shall be mutually compatible with adjacent projected developments.

10.02 Procedure

A. Initial development plan: When a petitioner wants to request a rezoning to the planned development district, it shall be submitted to the Authorized Official, showing the information specified in Section 10.03 below, a minimum of 30 days prior to the planning commission meeting at which consideration is desired. After the planned development request has been reviewed, the planning commission shall make a recommendation to the City Council on the requested rezoning. The City Council shall then act to approve or deny said request.

This request for rezoning is subject to the requirements for amendment of the zoning regulations specified in Chapter 17. No building permit shall be issued within the development until the final development plan is approved and the plat is filed.

B. Final development plan: Prior to construction on any lots in the planned development, the petitioner shall present a final development plan showing the information specified in Section 10.04 below, to the planning commission, who shall have the sole authority to approve, deny, or amend said plan.

The final development plan may be submitted in conjunction with the initial development plan for concurrent approval on any subareas the developer is ready to commit to a final plan. All the information required for both an initial and final development plan must be shown for the area submitted for concurrent approval, except that the developer may reference the requirements of one of the traditional zoning districts as the development standard for a particular subarea.

At least one sign shall be posted on the property by the Authorized Official for a continuous period of ten (10) days immediately prior to any public hearing held by the planning commission or city council to consider any final development plan.

C. Amendments:

1. Major Amendments. Major amendments to the initial and/or final development plan shall be required to be approved with a public hearing in the same manner as provided for in Section 10.05.

2. Minor amendments. Minor amendments to the initial and/or final development plan shall be required to be approved by the planning commission. Notice of such hearing shall be given by the posting of not less than two signs provided by the Authorized Official. Before any action shall be taken by the planning commission, the applicant shall first file with the Authorized Official a certificate verifying that said signs have been posted at the proper location and for the time specified.

   Minor amendments to the initial development plan may also be made by the submission and approval of a final development plan which is changed from the approved initial development plan. Any such amendments shall be shown as a change from the initial development plan on the final development plan, and further these changes shall be made on the initial development plan on file with the county register of deeds.

3. Minimal amendments. Minimal amendments to the final development plan shall be submitted to the Authorized Official on a reproducible development plan showing the requested changes. The Authorized Official may then approve such change in writing if he/she deems it appropriate.

10.03 Initial Development Plan

Upon application for rezoning to planned development district, the petitioner shall present an initial development plan to the planning commission for review, and to the city council, for their approval showing the following information:

A. Project name and legal description.

B. A preliminary subdivision plan in compliance with Article 3 of the Subdivision Ordinance.

C. The proposed development scheme showing the following information:

1. The proposed land uses, including the number and type of proposed residential buildings, the proposed number of dwelling units per building, the number and type of any proposed nonresidential buildings and their square footage.

2. The proposed maximum density of the development, which shall not exceed the density allowed in the traditional zoning districts for similar uses, except where unique physical, environmental or design characteristics make such densities undesirable.

3. The proposed minimum setbacks which shall be no less than those required in the traditional zoning districts for similar uses, except where unique physical, environmental or design characteristics make such setbacks undesirable.

4. The proposed maximum height which shall be no greater than that required in the traditional zoning districts for similar uses, except where unique physical, environmental or design characteristics make such heights undesirable.

5. Proposed design features illustrating compatibility to the surrounding environment and neighborhood.

6. Anticipated subarea development sequence.

In addition the developer shall provide an 8 1/2 x 11 scaled rendering on mylar of the approved initial development plan showing each of the subareas.

10.04 Final Development Plan

Prior to construction on any lots in the planned development zoning district, the petitioner shall present a final development plan to the planning commission for their approval.

Exception: When a subarea is proposed by the developer for only single-family detached homes or two-family attached units, a final development plan will not be required.

Final development plan approval shall expire one year from the date upon which it becomes effective if no work has commenced. Upon written request to the Authorized Official and prior to the final development plan approval expiration date, a time extension for the final development plan approval may be granted.

The final development plan shall show the following information:

A. The subdivision name, the legal description and the individual project name (if any).

B. Boundaries of the subarea or subareas submitted for approval superimposed on the map of the initial development plan.

C. A subdivision plat of the subarea or subareas submitted for approval in compliance with Article 4 of the Subdivision Ordinance.

D. A scale drawing showing the following information will be required:

1. Size and location of proposed structures including height and number of units.

2. Calculated floor area for each structure and a generic listing of the uses within said structure.

3. Off-street parking lot arrangement designating all parking spaces, off-street loading spaces and any outdoor trash container.

4. Any sidewalks, bikeways or other paths.

5. Any outdoor lighting, type and location, except for standard street lights provided by the city.

6. Landscaping plans showing the type and location of any walls or fences, the placement, size and species of any trees or shrubs and berms in areas that will be sod or seeded.

7. All existing and proposed utilities, drainage ways, water courses and location of above ground existing utilities on adjacent property.

8. Proposed final ground contours.

9. Curb cuts and all private drives.

10. Adjacent, existing and proposed uses.

11. First floor elevation for any structure located in a flood hazard area.

12. Accurate building elevation of all proposed structures.

13. Documentation of the ownership and maintenance responsibility of any common open spaces, structures or facilities, including private streets.

14. Any subareas proposed for multiple residential development will be required to provide an open area for recreation. Said open spaces shall not be included in any required yard, but shall be located in the same subarea it is intended to serve.

15. Proposed parking and loading spaces which shall be in conformance with Chapters 11.04 and 11.05, except where unique physical, environmental or design characteristics make such requirements undesirable.

16. Unless otherwise specified on the final development plan, all development standards shall be the same as those set forth in the traditional zoning districts, which shall be referenced for each subarea as a part of the final development plan. For example: townhouses on block X shall be developed in conformance with the requirements of the R-1, residential district.

10.05 Amendments

A. Major amendments: The following changes in an initial and/or final development plan are considered major amendments:

1. Any change in the proposed land uses.

   a. Should follow a rezoning process [Chapter 17].

2. An increase in density above that provided for in Section 10.05(B)(5) below.

   a. Should follow a rezoning process [Chapter 17].

B. Minor amendments: The following changes in an initial and/or final development plan are considered minor amendments:

1. Any adjustment in the size or shape of the building envelope (increasing the height or reducing the building setback).

2. Any change in the number or location of curb cuts.

3. Any decrease in the size of required open areas.

4. A minor change in the street pattern.

5. Any increase in density of a subarea:

a. Less than 25 percent for a subarea with less than eight units.

b. Less than 15 percent for a subarea with between nine and 20 units.

c. Less than eight percent for a subarea with 21 units or more.

6. Any change in the number of parking spaces.

7. Any minor change to on-premise signage.

8. Any major change in the street pattern.

C. Minimal amendments: The following changes in an initial and/or final development plan are considered minimal amendments:

1. Any adjustment of a building within a previously established building envelope.

2. A reduction in density and scale.

3. Any minimal change in the street pattern.

4. Any minimal change in the parking and loading requirements.

5. Any minimal change to on-premise signage.

10.06 Planned Development Districts

Planned development districts shall be as enumerated below:

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ADDITIONAL USE REGULATIONS

11.01 Reserved

11.02 Visibility at Intersections and Driveways

A. Intersection safety zones: No monument style sign or other sign with its face less than twelve (12) feet above grade or any fence, wall, shrub or other obstruction to vision exceeding three (3) feet in height above the established street grade shall be erected, planted or maintained within a triangular area of a corner lot that is included by measuring straight lines along the curb lines at points 40 feet distant in each direction from the intersection of the curbs and a straight line connecting the first two lines. (See Figure 1)

B. Driveway safety zones: No monument style sign or other sign with its face less than ten (10) feet above grade or any fence, wall, shrub, or other obstruction to vision exceeding three feet in height above the established street grade shall be erected, planted, or maintained within the area from the curb line to ten feet behind the curb line. (See Figure 1)

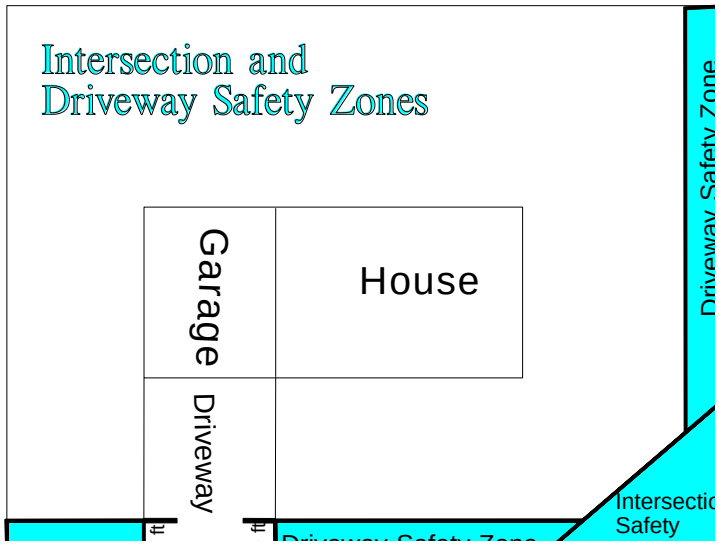

Figure 1

11.03 Accessory Buildings and Uses

Accessory buildings and uses shall conform to the following standards:

A. Accessory buildings and uses must be subordinate to principal use *(see definition of accessory use or structure).*

B. A private garage *(see definition of private garage)*. Roofing and siding materials shall be of a type customarily used on site-constructed residence. Exposed fastener corrugated metal or corrugated fiberglass roofing and exposed fastener metal siding is not permitted. Siding and roofing requirements may receive a variance.

C. Buildings or structures for customary residential storage purposes shall not exceed ten (10) feet in height and shall not exceed 200 square feet in gross floor area.

D. Accessory buildings or structures with a gross floor area less than 200 square feet do not require a concrete foundation. However, they must be anchored to the ground by an appropriate method.

E. No accessory building, structure, or use may be located in a front yard. Accessory buildings, structures or uses may be located within five (5) feet of the side and rear property lines. No accessory building, structure or use shall be located within ten (10) feet of a principal structure.

F. No accessory building, structure or use shall be located on a recorded utility or drainage easement (except for equipment pertaining to said easement).

G. In all cases, accessory structures shall not occupy more than thirty (30) percent of the rear yard.

H. A garage or carport which is entered directly from an alley shall not be closer than twenty (10) feet to the rear property line.

I. Accessory buildings may not be used for dwelling purposes.

J. No accessory building or use shall be constructed upon a lot until the construction of the main building has been actually commenced, and no accessory buildings shall be used unless the main building on the lot is also being used.

11.04 Off-Street Parking

A. General Conditions

1. No parking spaces are permitted in the required front yard in an R-1 or R-2 District except for portions of the front yard necessary for hard surfaced driveways or as

otherwise provided in this Ordinance. Parking is permitted in a side yard or rear yard in an R-1 or R-2 District, provided it is not nearer than two (2) feet to the property line.

2. Driveways shall not exceed 36 feet in width. An exception for 40 feet driveways shall be allowed for businesses expecting tanker truck traffic.

3. Each parking space shall be directly accessible to an access aisle.

4. Except in conjunction with a legal nonconforming business it is unlawful for any person to park, store, leave, or permit the parking, storing or leaving of any commercial vehicle, with a manufacturer's gross vehicle weight rating over ten thousand (10,000) pounds, in a NRC, R-1 or R-2 Zoning District, unless the vehicle is parked in connection with the performance of a service.

5. All parking, loading, and maneuvering and drive areas thereto shall be hard surfaced with concrete or asphalt.

6. The parking requirements in this section, except 11.04(A)(5), shall not be applicable to property in the CB Central Business District, except for residential uses which are authorized by a conditional use permit.

B. Required Parking Spaces

In computing the number of required off-street parking spaces the floor area shall mean the gross floor area of the specific use, excluding any floor or portion used for parking. Where fractional spaces result, the parking spaces required shall be the nearest whole number. For the number of off-street parking and loading spaces required in all other districts, see TABLE 1 below:

TABLE 1: Minimum Off-Street Parking & Loading Requirements

USES & STRUCTURES	MINIMUM PARKING REQUIREMENTS
Single-family and two-family dwellings	Two (2) spaces for each dwelling unit.
Multiple-family dwellings	One and one-half (1 ½) spaces for each dwelling unit of one bedroom or less. Two spaces for each dwelling unit of two bedrooms or more.
Rooming and boarding houses, sororities and fraternities	One (1) parking space for each two hundred (200) square feet of floor area (one space per two beds).
Bowling alleys	Four (4) spaces per lane

USES & STRUCTURES	MINIMUM PARKING REQUIREMENTS
Church or Temple	One (1) space for each four (4) seats in the main assembly area.
Private club or lodge	One (1) parking space for each three hundred (300) square feet of floor area.
High School	Four (4) spaces for each classroom or office room, plus one (1) for each one hundred fifty (150) square feet of seating area in any auditorium or gymnasium or cafeteria intended to be used as an auditorium.
Elementary School	Two (2) spaces for each classroom or office room, plus one (1) for each one hundred fifty (150) square feet of seating area in any auditorium or gymnasium or cafeteria intended to be used as an auditorium.
Eating and Drinking Places	One (1) space for each one hundred (100) square feet of gross floor area or one (1) space for each three seats, whichever is greater.
Hospitals	One (1) space for each bed.
Nursing, convalescent and rest homes	One (1) space for each 3 beds.
Auditoriums, theaters and places of public assembly	One (1) space for each four (4) seats of design capacity.
Hotels and Motels	One (1) space for each two (2) rental rooms.
Funeral homes	One (1) space for each four (4) seats in the chapel.
Retail sales establishments	One (1) space for each three hundred (300) square feet of floor area.

USES & STRUCTURES	MINIMUM PARKING REQUIREMENTS
Medical and dental clinics	One (1) space for each two (2) staff members and full-time employees, plus one (1) space for each six hundred (600) square feet of gross floor area.
Manufactured home parks	Two (2) spaces for each manufactured home lot.
Industrial uses	One and one-half (1 ½) spaces for each two (2) employees on the maximum working shift.
Service establishments	One (1) space for each three hundred (300) square feet of floor area.
Wholesale and distribution establishments	One (1) space for each two (2) employees on the maximum working shift.
Day Care Center, preschool	One (1) space for each employee on the maximum working shift, plus one (1) space for each ten (10) persons the facility is licensed to enroll. Additional parking or designated area for drop-off and pick-up may be required.

All other uses not specified above shall have minimum off-street parking and off-street loading spaces as determined by the Board of Adjustment.

11.05 Off-Street Loading Requirements

There shall be provided at the time any building is erected or structurally altered, off-street loading spaces for the following uses.

Use	Gross square feet floor area	Number of Off-street loading spaces
Office Buildings	25,000 - 50,000 every additional 75,000	One 14' x 35' space Add one 14' x 35' space

Use	Gross square feet floor area	Number of Off-street loading spaces
Retail, Service and Trade Establishments and Industrial and Wholesale Commercial	5,000 - 20,000 20,000 - 100,000 Every additional 75,000	One 14' x 35' space Two 14' x 35' spaces Add one 14' x 35' space

11.06 On-Premise Signs

Districts	Permitted Signs	Sign Area (maximum)	Sign Height (maximum)
NRC, R-1, R-2 for specified uses only*	Freestanding	50 square feet	6 feet above grade
R-1 & R-2	Wall	2 square feet	On wall only
CB & GB	Wall, roof, and projecting	2 square feet per 1 foot of lineal street frontage with a maximum of 200 sq. ft.	Wall - on wall only Roof and projecting - 5 feet above roof line
CB & GB	Freestanding	1 square foot per 1 foot of lineal street frontage with a maximum of 200 sq. ft.	GB - 30 feet above grade CB - 18 feet above grade
LI & HI	Freestanding	1 square foot per 3 lineal feet of street frontage with a maximum of 100 sq. ft.	20 feet above grade
LI & HI	Wall, roof, and projecting	1 square foot per 3 lineal feet of street frontage with a maximum of 100 sq. ft.	Wall - on wall only Roof and projecting - 5 feet above roof line

* Specified uses are listed within the district's applicable standard tables (Sections 3.01, 3.02, 4.01, 4.02, 5.01 and 5.02)

11.07 Off-Premise Signs

Off-premise signs are allowed in the GB, LI, and HI Districts subject to the following regulations:

A. Off-premise signs will be allowed a maximum size of 288 square feet.

B. Signs will be allowed a maximum height of 40 feet; and a minimum height of 12 feet.

C. There will be a minimum setback for the sign face of 10 feet and a minimum setback for the sign structure of 22 feet.

11.08 Fences

Fences may be erected in required yards, provided they meet or exceed the following requirements:

A. No barbed wire fence shall be erected or maintained.

B. No fence shall be erected or maintained in such manner as to unreasonably obstruct the view of others or their access to light or air.

C. For R-1, R-2, or CB District - Fences not more than six (6) feet in height may be erected on any part of a lot other than in the required front yard. Fences not more than four (4) feet in height may be located on any part of the lot.

D. For GB, LI, or HI District - Fences not more than eight (8) feet in height may be erected on any part of a lot other than in the required front yard except any yard adjacent to a residential use.

E. No fence shall be erected which violates *11.02 - Visibility at Intersections.*

F. To preserve the neighborhood character of the Residential districts, fences along the perimeter of a front yard shall be of a traditional design and shall not be more than 30 percent solid.

G. The maximum fence height for golf courses, public swimming pools, school track and field areas, parks and ball parks shall be eight (8) feet and for public tennis courts twelve (12) feet on any portion of the lot. Fences associated with these uses shall not be more than 30 percent solid.

H. Fences that are adjacent to alleys shall be set back five (5) feet from the street/boulevard right-of-way.

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

J. In the event a fence is to be constructed on the property line, abutting property owners shall be notified prior to the issuance of a permit.

K. The installation of a fence shall be in a manner as to which access to the City for the purposes of reading or maintaining utility meters is provided.

11.09 Telecommunications Tower, Antenna Support Structures and Wireless Communications Facilities

Regulations regarding development of telecommunications towers, antenna structures and wireless communications facilities are intended to encourage the development of a competitive wireless communications marketplace while protecting the health, safety, and welfare of the public and maintaining the aesthetic integrity of the community. The regulations cover the placement, construction, and modification of telecommunications facilities.

A. A minimum distance of three hundred (300) feet from the telecommunications tower to any residentially zoned or used property measured from the base of the telecommunications tower to the property line.

B. A minimum distance of ½ mile between telecommunications towers measured from the base of one telecommunications tower to the base of another except when an existing antenna support structure is used to co-locate a wireless communication facility.

C. Building permit shall include documented Federal Communications Commission (FCC) approval prior to permit issuance.

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

E. The tower shall be constructed in a manner that will make it inaccessible for unauthorized person to climb.

11.10 Site-Built Single-Family and Multi-Family Dwelling Standards

A. A wood or masonry foundation shall form a complete enclosure under the exterior walls.

B. All single-family dwellings shall be oriented on the lot, so that the primary pedestrian entrance faces the street or access easement.

C. Roofing materials shall be wood shingle or shake, composition, asphalt laminate, clay or architectural metal. The use of corrugated sheet metal for roofing shall not be permitted.

D. Eaves and gable ends must be a minimum of twelve inches. This is not applicable to re-roofing or additions to existing structures.

E. The exterior of the home must be finished with a minimum of two types of materials. Exposed fastener metal siding is prohibited on residential buildings.

F. 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, excepting manufactured homes placed in an approved R-2 district. The Authorized Official or his or her designee shall inspect and authorize all dwellings moved into the City of Salem.

11.11 Landscaping Standards

It is the desire of the City of Salem to encourage development which is environmentally sensitive and aesthetically pleasing. To assist in these objectives, a minimum standard for landscaping is prescribed.

A. Within any zoning district, at least 90 percent of the required front yard setback shall be landscaped and maintained with living ground cover except for the portion of the front yard necessary for hard surfaced driveways (see 11.04).

B. Within GB, CB, LI, and HI districts, one tree per 50 feet of lot width is required. No more than 20 percent of the trees may be planted in the street right-of-way. No more than 25 percent of the required trees may be deciduous ornamental, evergreen, or coniferous trees.

C. Each existing tree of at least 1 3/4-inch caliper in size shall count toward the tree requirement.

D. The unpaved portion of a dedicated public right-of-way abutting any development shall be landscaped with sod, seed, or other living ground cover. Only deciduous shade trees may be planted in the street right-of-way.

E. Landscape areas must be capable of providing a substantially full expanse of foliage within three years after planting. All deciduous trees shall be 1 3/4 inch caliper and all deciduous ornamental shall be 1 1/4 inch caliper. These requirements are considered to be minimum requirements, and under no circumstances shall these measurements be lowered.

F. Screening: A fence, wall, or shrubbery six (6) feet in height and of a character necessary for adequate screening shall be installed or planted when a parking lot is located adjacent to residentially used property or across the right-of-way from residentially used property (unless the right-of-way is an arterial street). Berms or other landscaping techniques may be used for all or part of the six foot screening if they have a maximum grade of three feet horizontal to one-foot vertical and sodded or planted with other acceptable living ground cover.

G. Parking Lot Buffer Areas: A setback of at least five (5) feet shall be provided between a parking lot and residentially zoned property.

Exception: If proper screening is provided, the setback may be two (2) feet.

H. Lighting Standards: When property is adjacent to or within 150 feet of residentially used or zoned property, the following lighting standards apply:

1. The maximum light level shall be no greater than three (3) foot candles field measured at the property line (ground level).

2. The maximum height of light luminaries shall be 25 feet above the ground.

3. Canopy luminaries and other on-site lighting with luminaries greater than 2000 lumens shall include a 90-degree cut-off type, deflector, refractor, or forward throw light fixture.

4. The maximum number of canopy luminaries shall be determined by the following industry standard:

   Canopy length (in feet) x canopy width (in feet) x 3 = Maximum No. of Luminaries Lamp wattage

All other light luminaries shall have a maximum height of 38 feet above the ground. Submittal of photometric plans shall be required with all site plan checks for building projects on property with lighted parking lots or lighted canopies.

The following structures or uses are exempt from these lighting standards: public recreation facilities, parks, pedestrian walkways, illuminated flags or statues, airport runways, telecommunication towers, broadcast towers, and historic period lighting.

11.12 Home Occupations

A. Criteria and Standards. All home occupations shall meet the following criteria and standards:

1. The occupation must be conducted within a dwelling unit. The use shall be conducted entirely within the dwelling unit. No other employees shall be hired.

2. The area set aside for a home occupation shall not exceed 20% of the total floor area of the residence, including garages. The permissible floor area includes that space necessary for storage of goods or products associated with the home occupation.

3. The operation of the home occupation shall not cause or encourage excess vehicular or pedestrian traffic not ordinarily associated with the residential area in which the home occupation is conducted except under the following condition:

   a. Public access to the home occupation shall be by invitation only and there shall ordinarily be no more than one (1) vehicle not owned by the occupants on or

adjacent to the property for business purposes except that appointments may overlap for time period not exceeding 60 minutes.

4. Merchandise offered for sale shall be clearly incidental to the home occupation provided however, that, orders may be taken for later delivery off the premises.

5. On-premises advertising shall be limited to 1 non-illuminated sign not exceeding 2 square feet. The legend shall show only the name of the occupant and type of occupation and shall be neutral in color.

6. Such occupations shall not require substantial internal or external alterations or involve construction features not customary in a dwelling. No home occupation shall require external alteration of the residence or other visible evidence of the conduct of such home occupation.

7. No toxic, explosive, flammable, combustible, corrosive, etiologic, radioactive or other restricted material shall be stored on site.

8. No activity shall be conducted which would interfere with radio or television transmission in the area, nor shall there be any offensive noise, smoke, dust or heat noticeable beyond the premises.

9. Home occupations shall be restricted to the hours of 8:00 a.m. to 9:00 p.m.

B. Major home occupations. Any proposed home occupation which does not meet the criteria as established in this section is deemed a major home occupation and shall require a conditional use as established by Section 18.01.

11.13(A) Manufactured Homes (Outside of an Approved Manufactured Home Park)

A. Outside of an approved Manufactured Home Park, no manufactured home shall be parked in any district for more than 48 hours, unless a building permit has been issued for the location of such manufactured home, or in the following situations:

1. In the NRC District, whenever a manufactured home is utilized as a temporary dwelling for family members or farm / ranch laborers, such dwelling shall be considered an accessory use.

2. During the construction of a dwelling, a manufactured home may be parked and occupied on land owned by the occupant or occupants thereon, until the construction of the dwelling is complete, but not for a period exceeding 180 days.

B. No building permit for the location of a manufactured home shall be issued until a

Conditional Use Permit has been approved by the Planning Commission. The Planning Commission shall not approve a Conditional Use Permit unless the following performance standards will be met:

1. The structure shall have been constructed on or after July 15, 1976, or shall have been renovated to comply with the industry standards in effect on such date and shall meet or exceed the federal Manufactured Home Construction and Safety Standards, in accordance with such proofs as the Planning Commission shall find satisfactory;

2. The exterior dimensions of the structure, exclusive of overhangs, shall be 22 feet in width or greater;

3. The manufactured home shall be supported by a permanent foundation system consisting along the perimeter and piers on the interior. All foundation walls and piers shall extend a minimum of 48 inches below final grade.

4. The manufactured home shall comply with all lot and yard requirements established for the zoning district in which it is to be located; and

5. The manufactured home shall be aesthetically compatible with neighboring dwelling units, including but not limited to the following factors: width, length, area, number of stories, siding and roofing materials, roof style and pitch, and condition.

C. Manufactured Homes which are nonconforming uses may be replaced with any structure upon application for and approval of a conditional use. The compatibility of the replacement structure with surrounding uses and dwellings shall be considered in the conditional use request.

11.13(B) Manufactured Home Parks

A manufactured home park may be developed in certain districts as a Conditional Use, as specified in Chapter 5 - R-2: Manufactured Housing Residential District. To be granted a Conditional Use Permit, a manufactured home park shall at a minimum, meet all of the following requirements:

A. The applicant shall present plans and specifications for the proposed park in a form suitable for making the determinations required herein; these shall include the legal and locational description of the property and maps showing the layout, dimensions, streets, utility lines, lots, locations of manufactured homes and other buildings, and any other information which the Zoning Administrator deems necessary for the Planning Commission to approve a Conditional Use Permit.

B. The manufactured home lot shall be located on a well-drained area, and the premises shall be properly graded to prevent the accumulation of storm or other waters.

C. The manufactured home park shall be connected to a central water distribution system and a central wastewater collection and treatment system.

11.14 Bed and Breakfast Establishments

A. Bed and Breakfast Establishments shall be limited to a residential structure.

B. They shall be in compliance with applicable state laws including South Dakota Department of Health, maintaining a guest list, and providing a smoke detector in each sleeping room.

C. Such uses shall be an incidental use with an owner-occupied principal dwelling structure provided that not more than four (4) bedrooms in such dwelling structure shall be used for such purpose.

D. Off-street parking requirements shall be one space per guest room and shall be in addition to parking requirements for the residence.

E. The length of stay shall not exceed 14 days during any 120 day consecutive period.

F. 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.

11.15 Wind Energy Conversion Systems

A. General. Wind energy conversion systems shall be allowed as conditional uses in certain zoning districts. In addition to the standards set forth in Chapter 18 regarding all conditional uses, all wind energy conversion systems shall also meet all requirements of Section 11.15 herein.

B. Commercial sale of power prohibited. Any wind energy conversion system shall be used only for the purpose of generating power for the property on which the wind energy conversion system is located, or for the purpose of transmitting power to the electrical grid of an electric utility company through an approved interconnection.

C. Utility interconnections. Any wind energy conversion system shall be constructed and operated, and any interconnection between a wind energy conversion system and an electric utility company shall be allowed only in accordance with all local, state, and federal regulations including regulations issued by the South Dakota 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.

D. Required setbacks. A minimum setback of one and one-half times the height of the wind energy conversion system shall be maintained between the wind energy conversion system

and any property line, structure intended for human occupation, overhead utility line, or other tower support base.

E. Tower height. In no event shall the height of a wind energy conversion system exceed 90 feet as measured from the ground to the rotor hub. Further, there shall be no less than 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.

F. Rotor size/operation. The maximum size of the rotors of a wind energy conversion system 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 systems shall be equipped with appropriate braking devices or similar protective devices to slow down or stop the rotors if the wind exceeds the capacity of the system.

G. Noise. No wind energy conversion system shall produce more than 60 decibels of sound measured at the closest point on the closest property line from the base of the system. Information from the manufacturer of the wind energy conversion system shall be submitted at the time of the submittal of the conditional use, ensuring that this requirement can be met once the system is operational.

H. Electromagnetic interference. No wind energy conversion system 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 petitioner must submit information from the manufacturer indicating that, once operational, the wind energy conversion system 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.

I. Tower access. Appropriate safety measures must be undertaken to discourage unauthorized climbing of a wind energy conversion system tower. Appropriate measures shall include either:

1. The construction of a 6-foot tall chain link fence with locking gate around the tower;

2. The tower shall be constructed so that the lowest climbing access shall be at least 12 feet above the ground; or

3. A locked anti-climb device shall be installed on the tower.

J. Warning information. Information related to the maximum power output, nominal voltage and maximum current, and emergency shut-down procedures for the wind energy conversion system shall be posted near the base of the tower in a visible location.

K. Lighting. Unless required by a more restrictive regulation, no lighting shall be installed on a wind energy conversion system.

L. Tower design. In reviewing the conditional use for a wind energy conversion system, 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.

M. Manufacturer warranty/maintenance information. Upon application for a conditional use for a wind energy conversion system, the petitioner shall submit a manufacturer's statement documenting that the system has been successfully and safely operated in atmospheric conditions that are similar to conditions in Salem. Further, the petitioner shall provide a copy of the manufacturer's warranty indicating that the system is warranted against any system failures reasonably expected during severe weather conditions. Further, the petitioner shall submit system specifications including maximum power output and a maintenance schedule for the system.

N. Construction standards. Any wind energy conversion system shall be constructed in accordance with all applicable life, safety, building and fire codes including but not limited to the following:

1. An applicant for a building permit for a wind energy conversion system shall submit plans and specifications stamped by a registered engineer.

2. Lightning Protection. Any wind energy conversion system shall have appropriate lightning protection to sufficiently protect all connected and adjacent equipment and structures from damage. The lightning protection system shall effectively discharge lightning energy from the structure to the ground through the application of shielding, lightning arresters and deep earth grounding.

O. Abandonment/removal.

l. Any wind energy conversion system which has not been used for a period of six (6) months or more shall be declared abandoned. Upon 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:

a. 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 25% of the power output as stated in the system specifications over the past 6 months;

b. The wind energy conversion system has fallen into obvious disrepair and/or has been condemned by the City of Salem.

c. 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.

2. 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.

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12

ADJUSTMENTS TO YARD REGULATIONS

12.01 Adjustment to Front Yard Requirements

With an approved variance, a front yard may be adjusted to an average of the adjacent structures' front yards where existing adjacent structures have a front yard less than required.

12.02 Adjustment to Side Yard Requirements

With an approved variance, buildings constructed prior to the effective date of this Ordinance with side yard setbacks of less than required by this Ordinance, may have additions erected in line with the existing building and provided further that said addition will be erected no closer to the lot line than the existing building.

12.03 Projection From Buildings

Every part of any required yard shall be open to the sky and unobstructed except:

A. Eaves may project into a front, side, or rear yard;

B. Ordinary projection of sills, belt courses, cornices, vertical solar screen, ornamental features which may project twelve (12) inches;

C. Air conditioners may project into a required side or rear yard setback;

D. Solar collectors which are a part of the main building may extend into a required rear yard for a distance not to exceed ten feet;

E. An open, unenclosed porch may project into a required front yard for a distance not exceeding ten (10) feet. Balconies and paved terraces may project into a required front yard for a distance not exceeding six (6) feet. An enclosed vestibule containing not more than 40 square feet may project into a required front yard for a distance not to exceed four feet; and

F. Terraces, uncovered porches, platforms, decks and ornamental features which do not extend above the level of ground (first) floor may project into a required yard, provided these projections be distances at least two (2) feet from the adjacent side or rear lot line.

13

NON-CONFORMING USES

13.01 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 with the district regulations subject to the following provisions:

A. Whenever a nonconforming use or structure has been changed to a more restricted or conforming use, it shall not be changed back to a less restricted use.

B. When the use of a building is nonconforming as defined by this ordinance and such a building is damaged by a fire, explosion, act of God, or the public enemy to the extent of more than 60 percent of its fair market value, it shall not be restored except in conformity with the provisions of the district in which the building is located.

C. When a nonconforming use or structure is discontinued for a period of one year, the City Council may adopt, after notice by certified mail to the property owners, an amortization schedule to bring about the gradual elimination of such nonconforming use.

D. Any nonconforming use may be extended throughout any part of a structure which was arranged or designed for such use previous to the adoption of this ordinance, but shall not be extended outside such structure.

E. No existing nonconforming use or structure shall be enlarged, moved, or structurally altered except to change to a permitted use. This is not to include normal repairs and maintenance which do not enlarge, move or structurally alter a nonconforming use.

13.02 Continuation of Non-Standard Uses

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 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.

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.

14

ADMINISTRATION AND ENFORCEMENT

14.01 Powers and Duties

The Authorized Official is hereby authorized and directed to enforce all the provisions of the Zoning Ordinance and establish rules for its administration. For such purposes he or she shall have the powers of a law enforcement officer. The Authorized Official shall have the power to render interpretations of this ordinance. Such interpretations shall be within the intent and purpose of the Zoning Ordinance, and be set forth in writing. In addition, the Authorized Official may appoint or solicit technical advice, inspectors, city officials and other city employees to assist with the administration of the Zoning Ordinance. The Authorized Official shall be a City employee, with work week, hours of work and salary to be determined by the City Council or another person approved by the City Council. With approval of the City Council, the Mayor shall appoint the Authorized Official.

14.02 Right of Entry

Whenever necessary to make an inspection to enforce any of the provisions of this title, the Authorized Official and authorized representatives may enter such building or premises at all reasonable times to inspect. Provided such building or premises is occupied, the Authorized Official or authorized representative shall first present proper credentials and request entry. If such building or premises is unoccupied, the Authorized Official shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry is refused, the Authorized Official or authorized representative shall have recourse to every remedy provided by law to secure entry.

When the Authorized Official or authorized representative shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry of the building or premises, no owner or occupant or any other person having charge, care or control of any building or premises shall fail or neglect to promptly permit entry.

14.03 Stop Order

Whenever any work or use is being done contrary to the provisions of this title, the Authorized Official may order the work or use stopped by notice in writing served on any person engaged in the doing or causing such work to be done, and any such persons shall forthwith stop such work or use until authorized by the Authorized Official to proceed with the work or use.

15

BUILDING PERMITS AND FEES

15.01 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 Authorized Official, or his or her authorized designee, of the City of Salem.

A. An Application for Building Permit, available from the Authorized Official of the City of Salem, shall be completed by the landowner requesting the Building Permit. Completed applications shall be returned to the Authorized Official of the City of Salem for review. To be considered complete, the application form shall be accompanied by the following additional items:

   1. Any required attachments and City fees;

   2. Two copies of plans drawn to scale, showing the dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; and the location and dimensions of the proposed building or alteration;

   3. Any additional information, as requested by the Authorized Official of the City of Salem, as lawfully may be required to determine conformance with and provide for the enforcement of this ordinance.

B. A temporary Building Permit may be issued by the Authorized Official of the City of Salem for a period not exceeding six months during alterations or partial occupancy of a building pending its completion. The Authorized official of the City of Salem may attach conditions and safeguards to said temporary permit to protect the safety of the occupants and the public.

C. One copy of the plans shall be returned to the applicant, after the Authorized Official of the City of Salem has marked such copy as either approved or disapproved, and attested to the same by signing said copy of the plans. One copy of the plans, similarly marked, shall be retained by the Authorized Official of the City of Salem for City records.

D. If the Authorized Official of the City of Salem determines the proposed action would not be in compliance with the provisions of these regulations, a Building Permit may not be issued, except upon completion of one of the following processes established in these

regulations, as may be applicable to such proposed action. The Authorized Official of the City of Salem shall inform the applicant when one of the following processes may be applicable:

1. Variance
2. Amendment
3. Conditional Use Permit

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

15.02 Fees

A schedule of fees, charges, and expenses for permits, change of zone, appeals, and other matters pertaining to this Zoning Ordinance shall be established by resolution of the City Council. The current fee schedule shall be available from the Authorized Official of the City of Salem. All fees shall be the property of the City and shall be paid over to the Authorized official of the City of Salem 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.

15.03 Expiration of a Building Permit

Every building permit issued under the provisions of this chapter shall expire by limitation and become null and void if the work or use authorized by such permit is not commenced within 180 days from the date of such permit, or if the work or use authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. Before such work can be recommenced, a new permit shall first be obtained to do so, provided no changes have been made or will be made in the original plans and specifications for such work; and provided further that such suspension or abandonment has not exceeded one year.

Any permittee holding an unexpired permit may apply for an extension of the time within which he may commence work under that permit when he is unable to commence work within the time required for this section for good and satisfactory reasons. The Authorized Official may, except as otherwise provided herein, extend the time for action by the permittee for a period not exceeding 180 days upon written request by the permittee showing that circumstances beyond the control of the permittee have prevented action from being taken. No permit shall be extended more than once.

16

BOARD OF ADJUSTMENT

16.01 Establishment

A Board of Adjustment is hereby established for the City of Salem, which shall consist of the members of the City Council, pursuant to SDCL 11-4-24.

16.02 Powers and Duties

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

A. To hear and decide appeals where it is alleged there is error in any requirement or determination made by the Authorized Official of the City of Salem in the enforcement of this ordinance.

B. To hear and decide upon petitions for variances to vary the strict applications of the height, area, setback, yard, parking or density requirements as will not be contrary to the public interest. A variance shall not be allowed to vary the use regulations.

16.03 Appeal Procedure

A. Any person or persons, jointly or severally, aggrieved by any decision of the Authorized Official, may present to that Official, a notice of appeal, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. The notice of appeal shall be filed with the Authorized Official of the City of Salem, who shall transmit to the Board of Adjustment all information and records concerning the appeal. Such notice of appeal shall be presented to the Authorized Official within thirty (30) days after the filing of the decision in the office of the Authorized Official.

B. The Board of Adjustment shall keep a public record of all findings and decisions. All meetings shall be held at the call of the Chairman and at such other times as necessary. Each session at which an appeal is to be heard shall be a public meeting. No less than ten (10) days before the public hearing, the Authorized Official of the City of Salem shall publish notice of the public hearing in a legal newspaper of the city.

C. The public hearing shall be held. The appellant may appear in person, or by agent or attorney. Minutes of the public hearing shall be recorded and kept in the records of the Board of Adjustment. Written findings certifying compliance with the specific rules governing the action considered at the public hearing shall be completed by the Board. The

concurring vote of two-thirds (2/3) of the members of the Board of Adjustment shall be necessary to approve any appeal or arrive at any determination.

16.04 Variances

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

A. An unnecessary hardship must be established by the applicant who applies for the variance. For purposes of this Chapter, an unnecessary hardship is a situation where, in the absence of a variance, an owner can make no feasible or reasonable use of the property. Convenience, loss of profit, financial limitations, or self-imposed hardship shall not be considered as grounds for approving a variance by the Board of Adjustment.

B. Literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance.

C. The variance requested is the minimum variance that will alleviate the hardship.

D. Granting of the variance will comply with the general purpose and intent of this ordinance, and will not be offensive to adjacent areas or to the public welfare.

E. No nonconforming use or structure in the same district and no permitted or nonconforming use or structure in other districts shall be considered grounds for the issuance of a variance.

F. Exceptional and extraordinary circumstances apply to the property that do not apply to other properties in the same zone or vicinity and that result from lot size or shape, topography or other circumstances which are not of the applicant's making.

G. In order to preserve the intent of these Zoning Regulations and to protect the public interest, the Board of Adjustment may attach conditions to a Variance. A Variance shall remain valid only as long as the property owner complies with any terms and conditions of the Variance, as attached by the Board of Adjustment.

H. An Application for a Variance, available from the Authorized Official of the City of Salem, shall be completed by the landowner requesting the Variance. Completed applications shall be returned to the Authorized Official for review. To be considered completed, the application shall contain the following information:

1. Legal description of the land on which such variance is requested, together with local street address;

2. Name and address of each owner of the property;

3. Name, address, phone number and signature of the applicant;

4. Zoning district classification under which the property is regulated at the time of such application;

5. Description of the variance sought from the Zoning Regulations;

6. Be accompanied with a site plan, unless waived by the Authorized Official.

I. The Authorized Official shall review the application, and shall make a recommendation to the Board of Adjustment to either approve or not approve said application. The Authorized Official's recommendation shall include a summary of the application, and the reasons and justification for either approval or disapproval of the application.

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

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

16.05 Court Review

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

17

AMENDMENTS AND CHANGE OF ZONE

17.01 Procedure

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

The following procedure for requesting an amendment shall be followed:

A. The Authorized Official of the City of Salem shall review the application for amendment or change of zone and forward the application and his/her comments to the Planning Commission for review.

B. The Authorized Official of the City of Salem shall set the date, time and place for a Planning Commission public hearing. The Authorized Official of the City of Salem shall publish notice of the public hearing in a legal newspaper of the city once not less than 10 days prior to the public hearing. At least one sign shall be posted on the property for a continuous period of ten (10) days immediately prior to any public hearing held by the Planning Commission to consider any rezoning application.

C. 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.

D. The Planning Commission shall either recommend or not recommend approval of the amendment to the City Council.

E. The Authorized Official of the City of Salem shall set the date, time and place for a City Council public hearing. The Authorized Official of the City of Salem shall publish notice of the public hearing in a legal newspaper of the city once not less than 10 days prior to the public hearing. At least one sign shall be posted on the property for a continuous period of ten (10) days immediately prior to any public hearing held by the City Council to consider any rezoning application.

F. The City Council shall either approve or not approve the ordinance describing the proposed amendment or change of zone to these Zoning Regulations, in accordance with standard procedures for reading, approval, publication and effective date.

G. When a proposed amendment or change of zone is approved by the City Council, the amendment shall take effect twenty days after publication, unless the referendum shall have been invoked.

18

CONDITIONAL USE PERMITS

18.01 Conditional Uses

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

A. Procedure

The Planning Commission may authorize by Conditional Use Permit those uses specifically designated as Conditional Uses in Chapters 3 through 9. The Planning Commission shall impose such conditions as are appropriate and necessary to insure compliance with the Comprehensive Plan and protect the health, safety, and general welfare in the issuance of such Conditional Use Permit.

B. Application

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

1. Legal description of the land on which such Conditional Use is requested, together with local street address.
2. Name and address of each owner of the property.
3. Name, address, phone number and signature of the applicant.
4. Zoning district classification under which the property is regulated at the time of such application.
5. Be accompanied with a site plan, unless waived by the Authorized Official.
6. Any other information concerning the property as may be requested by the Authorized Official or the Planning Commission.

C. Fees

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

D. Information on Site Plan

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

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

Approved plans shall not be changed, modified, or altered without authorization from the Planning Commission giving final approval, and all work shall be done in accordance with the approved plans.

E. Review and Public Hearing Procedure

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

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

The following procedure shall be followed by the Planning Commission in considering the recommendation of the Authorized Official:

1. The public hearing shall be held. Any person may appear in person, or by agent or attorney. Minutes of the public hearing shall be recorded and kept in the records of the Planning Commission.

2. Before any Conditional Use Permit shall be granted, the Planning Commission shall make written findings certifying compliance with the specific rules governing individual Conditional Uses and that satisfactory provision and arrangement has been made concerning the following, where applicable:

    a. Ingress and egress to property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;

    b. Off-street parking and loading areas where required;

    c. Refuse and service areas, with particular reference to (a) and (b) above;

    d. Utilities, with reference to locations, availability, and compatibility;

    e. Screening and buffering with reference to type, dimensions and character;

    f. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with other properties in the district;

    g. Required yards and other open space;

    h. General compatibility with adjoining properties and other property in the zoning district in which such use is to be located;

    i. The goals and objectives of the most recently adopted Comprehensive Plan.

The Planning Commission shall decide whether to grant the conditional use with such conditions and safeguards as are appropriate or to deny a conditional use when not in harmony with the purpose and intent of these regulations. The decision of the Planning Commission shall be final unless an appeal is filed in accordance with Chapter 18.01 (F).

F. Appeal of Planning Commission Decision

The decision rendered by the Planning Commission on a conditional use permit may be appealed to the City Council. The applicant or any other person aggrieved by the decision of the Planning Commission shall file a written appeal with the Authorized Official within

five working days of the Planning Commission decision. When an appeal is filed, the Authorized Official shall present the Planning Commission's decision to the City Council for review. Notice of the meeting shall be given as required by Chapter 18.01 (E). The City Council shall vote to either uphold, overrule or amend the decision of the Planning Commission.

G. Expiration

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

1. There was no public objection presented during the public hearing process for the original conditional use permit;

2. The land uses for the surrounding properties have not significantly been altered since the original approval date for the conditional use permit;

3. Due to other on-going permitting processes or necessary engineering/planning studies relating to the specific project for the conditional use permit that may impact the one-year schedule for project completion.

A conditional use permit approved in accordance with Chapter 18 shall expire one year after the use discontinues on the premises, or the use is changed to another permitted use in the underlying district.

19

DEFINITIONS

19.01 Purpose

In the application of this ordinance, the rules and definitions contained in this section shall be observed and applied, except when the context clearly indicates otherwise.

A. Words used in the present tense shall include the past and future.

B. Words used in the singular number shall include the plural number and the plural, the singular.

C. The word “shall” is mandatory and not discretionary.

D. The word “may” is permissive.

E. The words “used” or “occupied” shall include the words “intended,” “designed,” or “arranged to be used or occupied.”

F. The word “lot” shall include the words “plot,” “parcel,” or “tract.”

G. The word “person” shall include a “firm,” “association,” “organization,” “partnership,” “trust,” “company,” or “corporation” as well as an “individual.”

H. The word “building” shall include the words “structure” and “premises.”

I. Any word not herein defined shall be as defined in any recognized standard English dictionary.

19.02 Definitions

ABUTTING - Abutting shall mean adjacent or contiguous and shall include property separated by an alley. The term “abutting” implies a closer proximity than the term “adjacent.”

ACCESSORY USE OR STRUCTURE - A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

ACTIVITY - Any application for a permit under this ordinance or any development or use encompassed within the jurisdiction of this Ordinance.

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

ADULT BOOKSTORE OR VIDEO STORE - A commercial establishment that offers for sale or rent any of the following as one of its principal business purposes:

1. Books, magazines, periodicals, or other printed matter, photographs, films, motion pictures, videocassettes or reproductions or slides, or other visual representations that depict or describe specific sexual activities or specific anatomical areas.

2. Instruments, devices, or paraphernalia that are designed for use in connection with specific sexual activities.

ADULT CABARET - Any nightclub, bar, restaurant, or other similar commercial establishment that regularly features:

1. Persons who appear in a state of nudity or seminudity.

2. Live performances that are characterized by the exposure of specific anatomical areas or specific sexual activities.

3. Films, motion pictures, videocassettes, slides or other photographic reproductions that are characterized by the depiction or description of specific sexual activities or specific anatomical areas.

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

ADULT ORIENTED BUSINESS - Any adult arcade, adult bookstore or video store, cabaret, adult live entertainment establishment, adult motion picture theater, adult theater, massage establishment that offers adult service, or nude model studios.

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

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

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

AIRPORT - A place where aircraft can land and take off, usually equipped with hangars, facilities for refueling and repair, and various accommodations for passengers, including Heliports.

ALLEY - An alley is a public right-of-way which affords only a secondary means of access to abutting property.

ANTENNA - Any device that radiates or captures electromagnetic wave signals, including digital voice and data signals, analog voice and data signals, video signals or microwave signals, and is mounted on a structure that allows freedom from obstruction for the radiation and capture of the electromagnetic signals.

AQUIFER - A geologic formation, group of formations, or part of a formation capable of yielding, storing, or transmitting a usable amount of groundwater to wells or springs for domestic or animal use.

ARCADE - A building or structure, open to the public, which contains coin operated games and similar entertainment and amusement devices, as the primary use or with five (5) or more games as an accessory use.

ASSISTED-LIVING CENTER AND CONGREGATE CARE FACILITY - A licensed health care facility to provide 24-hour supervision of the frail elderly that provide rooms, meals, personal care, and supervision of self-administrated medication. They may also provide services, such as recreational activities, financial services, and transportation.

AUTOMOBILE STORAGE YARD - The temporary storage of vehicles which are impounded, licensed, and operable, in an unroofed area.

AWNING/CANOPY - A roof-like cover that is temporary in nature and that projects from the wall of a building for the purpose of shielding a doorway or window from the elements.

BED AND BREAKFAST ESTABLISHMENT - A private single-family residence which is used to provide limited meals and temporary accommodations for a charge to the public.

BOARD OF ADJUSTMENT - Public and quasi judicial agency charged with duty to hear and determine zoning appeals.

BOARDINGHOUSE - A building, other than a hotel or apartment hotel, where for compensation and by prearrangement for definite periods, lodging, meals, or lodging and meals are provided for three or more persons.

BROADCAST TOWER - Shall mean a structure, not including offices or studio, for the transmission of radio or television broadcast communications.

BUILDABLE AREA - The three-dimensional space within which a building is permitted to be built on a lot and which is defined by maximum height regulations and yard setback regulations.

BUILDING - Any structure built for the support, shelter, or enclosure of persons, animals, chattels, or movable property of any kind, and which is constructed or erected on the ground or attached to the ground with a fixed location on the ground.

BUILDING, DETACHED - A building surrounded by open space on the same lot.

BUILDING, HEIGHT - The vertical distance above grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the average height of the highest roof, or to the average height of the highest gable of a pitched, hipped, or shed roof. The measurement shall be taken from the average elevation of the finished grade within ten feet of the structure.

BUILDING LINE - A line parallel to the curb line touching that part of a building or parking lot closest to the street.

BUILDING PERMIT - A document signed by the Authorized Official of the City of Salem as a condition precedent to the commencement of a use or the erection, construction, re-construction, restoration, alteration, conversion, or installation of a building, which acknowledges that such use, or building complies with the provisions of the municipal zoning ordinance or an authorized variance therefrom.

BUILDING, RESIDENTIAL - A building which is arranged, designed, used or intended to be used for residential occupancy by one or more families or lodgers, and which includes, but is not limited to, the following types:

1. Single-family detached dwellings;
2. Single-family attached dwellings;
3. Multiple-family dwellings (including apartment hotels);
4. Lodging houses; and
5. Fraternity and sorority houses.

BUS PASSENGER TERMINAL - A place where the transfer of people between modes of transportation takes place.

BUS/TRUCK TERMINAL - An area and building where buses, trucks, and cargo is stored; where loading and unloading is carried on regularly; and where minor maintenance of these types of vehicles is performed.

BUS/TRUCK WASH - Any building or portions thereof used for washing buses and/or trucks.

CAMPGROUND, TRAVEL TRAILER PARKING AREA - 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.

CARPORT - A space or structure serving same or similar purpose as a garage, having a roof, but two or more sides are open or do not have a permanent wall.

CAR WASH - Any building or portions thereof used for washing automobiles.

CERTIFICATE OF OCCUPANCY - A document issued by the proper authority allowing the occupancy or use of a building and certifying that the structure or use has been constructed or will be used in compliance with all the applicable municipal codes and ordinances.

CHANGE OF USE - Substitution of one thing for another specifically regarding use of land or use of a building.

CHURCH - A building or structure, or groups of buildings or structures, which by design and construction are primarily intended for the conducting of organized religious services and accessory uses associated therewith.

CITY - Means City of Salem, South Dakota.

CITY COUNCIL - Means Board of City Council Members, Salem, South Dakota.

CLINIC - An establishment where patients are admitted for examination and treatment by one or more physicians, dentists, psychologists, optometrists, social workers, etc., and where patients are not usually lodged overnight.

CLUB - Building and facilities owned or operated by a corporation, association, person, or persons for a social, educational, or recreational purpose, but not primarily for profit and not primarily to render a service which is customarily carried on as a business.

COMMERCIAL PARKING LOT/FACILITY - An approved open or enclosed off-street parking area or structure where licensed and operable motor vehicles are temporarily stored for a fee.

COMMISSION - Means City Planning Commission of Salem, South Dakota.

COMPREHENSIVE PLAN - The adopted long-range plan intended to guide the growth and development of the community and region, including analysis, recommendations and proposals of the community's population, economy, housing, transportation, community facilities, and land use.

CONDITIONAL USE PERMIT - A permit issued by the Planning Commission stating that a Conditional Use complies with the conditions and standards set forth in this Ordinance.

CONTRACTOR'S SHOP AND STORAGE YARD - Use of land or buildings for storage and preparation of materials used by that same individuals in conducting the business of construction and repair work, generally completed at some other on-site location.

CONTAMINANT - Any "regulated substance," as defined by SDCL 34A-12-1(8), as in effect on the date of passage of this ordinance and as amended from time to time, and all petroleum products, including gasoline, oil, waste oils, and other fuels as well as their hazardous constituents.

CONVENT AND MONASTERY - A place of residence for bona fide members of a religious order who carry on religious, medical, educational, or charitable work in adjacent institutions.

CURB LINE - The outside lines of the pavement or roadway.

DAY CARE - The providing of care and supervision of a child or children/adults as a supplement to regular parental/home care, without transfer of legal custody or placement for adoption, with or without compensation, on a regular basis for a part of a day.

DAY CARE, CENTER - Is normally in a facility used only for providing day care, nursery, or pre-kindergarten services, and is limited in number over twelve (12) by the square footage of usable space available. The ratio is presently thirty-five (35) square feet per child indoors and fifty (50) square feet per person outdoors.

DAY CARE, FAMILY - Care is done in a family home, and the number of persons cared for is limited to a maximum of six (6) adults or six (6) children under fourteen. Included in that count are the providers' own children six (6) years and under. See (Home Occupation).

DAY CARE, GROUP - Is normally in a family home. The number of persons cared for is seven (7) to twelve (12) adults or children under the age of fourteen including the provider's own children six (6) years and under.

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

DEVELOPMENT - The carrying out of any construction, reconstruction, alteration of surface, structure, change or land use or intensity of use, and including but not limited to the deposit of

refuse, solid or liquid waste, any mining or drilling operation, or work relating to the creation of a road, street, or parking area.

DISTILLATION OF PRODUCTS - A building or premises used for the purification and concentration of a substance by volatilization or evaporation and subsequent condensation.

DISTRICT - A part, zone, or geographic area of the City of Salem within which certain zoning or development regulations apply.

DRIVE-UP SERVICE WINDOW/DEVICE - An establishment which accommodates the patron's motor vehicles, from which the occupants may obtain or receive a service or obtain a product through a service window or automated device.

DWELLING - A building, or portion, thereof, used exclusively for human habitation, including single-family, two-family, and multiple-family dwellings, but not including hotels, motels, or lodging houses.

DWELLING, ATTACHED - A one-family dwelling attached to two or more one-family dwellings by common vertical walls.

DWELLING, MULTIPLE-FAMILY - A building, or portion thereof, containing three (3) or more dwelling units.

DWELLING, SINGLE-FAMILY DETACHED - A dwelling which is designed for and occupied by not more than one family and is surrounded by yards and is not attached to any other dwelling by any means.

DWELLING, SINGLE-FAMILY FARM - Single family dwelling located on a farm which is used or intended for use by the farm's owner or relative of the owner or a person employed thereon.

DWELLING, TOWNHOUSE - One of a group or row of two or more single-family dwellings designed and built as a single structure facing upon a street in which the individual townhouse may or may not be owned separately. The townhouse need not face upon a street if otherwise specifically provided in this title. For the purpose of side yard regulations, the structure containing the row or group of townhouses shall be considered as one building occupying a single lot.

DWELLING UNIT - One or more rooms, designed, occupied, or intended for occupancy as a separate living quarters, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.

ELECTRICAL SUBSTATION - A premises which may or may not contain buildings, where the interconnection and usual transformation of electrical service takes place between systems. An

electrical substation shall be secondary, supplementary, subordinate, and auxiliary to the main system.

EXISTING ANTENNA SUPPORT STRUCTURE - Any existing structure that supports wireless communications facilities, such as but not restricted to, telecommunications and broadcast towers, buildings, clock towers, steeples and light poles.

FAMILY - One or more individuals, related by blood or law, occupying a dwelling unit and living as a single household unit. A family shall not include more than three adults who are unrelated by blood or law. In addition to the persons actually related by blood or law, the following persons shall be considered related by blood or law for the purposes of this title:

1. A person residing with the family for the purpose of adoption;

2. Not more than six persons under eighteen years of age, residing in a foster home licensed or approved by a governmental agency;

3. Not more than four persons eighteen years of age or older residing with the family for the purpose of receiving foster care licensed or approved by a governmental agency;

4. Any persons living with the family at the direction of a court; and

5. Twenty four hour supervised living of persons with physical or mental disabilities, but not including group homes for drug and alcohol rehabilitation or halfway houses for persons adjudicated by a court. Such residential facilities shall be licensed by the State of South Dakota and proof of such licensing shall be required prior to zoning certificate approval.

FARM - A parcel of land used for agricultural purposes, with a minimum of 10 acres in size.

FARM IMPLEMENT DEALER - The use of any building or land area for the display and sale of new and used farm implements, including any warranty repair work and other repair service conducted as an accessory use.

FARMSTEAD - The area of a farm in which the out buildings sit and is normally protected by a grove(s) and not used for crops or grazing.

FARM STORE/FEED STORE - A retail store selling primarily agricultural products, including the bulk storage of fertilizers and related agri-chemicals.

FENCE - An artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.

FLOOR AREA - The square feet of floor space within the outside line of walls and includes the total of all space on all floors of a building. It does not include porches, garages, or space in a basement, or cellar when said space is used for storage or incidental uses.

FREESTANDING SIGN (Ground Sign) - A sign supported by one or more uprights, poles, or braces in or upon the ground and not attached to any building.

FRONTAGE - That side of a lot abutting on a street; the front lot line.

FROZEN FOOD LOCKER - A place where an animal is dressed and packaged, where no rendering or refining is done.

FRUIT/VEGETABLE CANNING AND PROCESSING - A commercial establishment in which food is processed or otherwise prepared for human consumption but not consumed on the premises.

GARAGE, PRIVATE - An accessory building or part of a main building used primarily for storage of private motor vehicles and which shall not be used for commercial purposes. In no event shall the size of the building footprint of the garage(s) or carport(s) exceed the footprint of the dwelling unit(s). Unattached garage(s) shall be limited to maximum sidewalls of ten (10) feet. The garage(s) or carport(s) shall be used only by persons residing on the premises. Any garage not meeting these requirements shall be allowed only as a conditional use pursuant to Section 18.01.

GARDEN CENTER - Garden center shall mean a building or premises used primarily for the retail sale of items useful in the culture, display, or decoration of lawns, gardens, or indoor plants; including books, appliances, and tools, but not including power tools or tractors.

GAS DISPENSING STATION - Any building or premises which provides for the retail sale of gasoline or oil. No automobile repair work or sale of auto accessories, or testing may be done. Gasoline pumps and islands shall be located more than 12 feet from the nearest property line.

GENERAL MANUFACTURING - Those manufacturing processes including light manufacturing which have the potential to be a nuisance due to dust, odor, noise, vibration, pollution, smoke, heat, glare, or the operation of the processes outside the building.

GOLF COURSE - A tract of land for playing golf, improved with tees, greens, fairways, hazards, and which may include clubhouses and shelters.

GRADE - The average elevation of the land around a building.

GRAIN TERMINAL - A facility for the storage of agricultural grains.

GREENHOUSE - A building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be 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.

GROUNDWATER - Subsurface water that occurs in soils and geologic formations that are fully saturated.

HAZARDOUS MATERIAL - Any contaminant as defined in this ordinance, and any hazardous chemical for which a material safety data sheet must be filed under 42 USC 11021 and 11022 as in effect on the date of publication of this ordinance.

HOME OCCUPATION - A home occupation is any occupation carried on by a member of the immediate family residing on the premises, in accordance with Section 11.12 of these zoning regulations.

HOSPITAL - An institution providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity, and other abnormal physical or mental conditions, and including, as an integral part of the institution, related facilities such as laboratories, outpatient facilities, or training facilities.

HOTEL, MOTEL, MOTOR COURT, MOTOR LODGE, OR TOURIST COURT - Any building or group of buildings containing guest rooms or dwelling units, some or all of which have a separate entrance leading directly from the outside of the building with garage or parking space conveniently located on the lot, and designed, used or intended wholly or in part for the accommodation of automobile transients.

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

KENNEL - Any premise, or portion thereof, where dogs, cats, and other household pets are maintained, boarded, bred, or cared for, in return for remuneration, or are kept for the purpose of sale.

LANDSCAPED AREA/LIVING GROUND COVER - An area that is permanently devoted and maintained in blue grass/ creeping red fescue, herbaceous perennials, trees, shrubbery, and flowers.

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 - A space within the main building or on the same lot for the standing, loading, or unloading of trucks.

LOT - A parcel of land occupied or intended for occupancy by a use permitted in this ordinance, which may include one (1) main building together with its accessory buildings, the open spaces and parking spaces required by this ordinance, and having its principal frontage upon a street or upon an officially approved place.

LOT AREA - The lot area is the area of a horizontal plane bounded by the front, side and rear lot lines.

LOT, CORNER - A lot or parcel of land abutting upon two or more streets at their intersection, or upon two parts of the same street forming an interior angle of less than 135 degrees.

LOT, DOUBLE FRONTAGE - A lot which abuts a street on two opposite sides (not a corner lot).

LOT, FRONTAGE - The length of the front lot line measured at the street right-of-way line.

LOT, INTERIOR - A lot other than a corner 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 LINE, FRONT - The lot line separating a lot from a street right-of-way.

LOT LINE, REAR - The lot line opposite and most distant from the front lot line; or in the case of triangular or otherwise irregularly shaped lots, a line ten feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line.

LOT LINE, SIDE - Any lot line other than a front or rear lot line.

LOT OF RECORD - A lot of record is a lot which is part of a subdivision or a certified survey map which has been recorded in the office of the County Register of Deeds; or a parcel of land, the deed to which was recorded in the office of said Register of Deeds prior to the effective date of this ordinance.

MANUFACTURE OF: ACID, ALCOHOL, AMMONIA, ASPHALT, BLEACH, CEMENT, CHLORINE, DYESTUFFS, EXPLOSIVES, FERTILIZER, GLUE, GYPSUM, LIME, OILS, PLASTER OF PARIS, SHELLAC, SIZING, TURPENTINE OR YEAST, ETC. –

Establishments engaged in the mechanical or chemical transformation of materials or substances into new products including the assembling of component parts, the manufacturing of products, and the blending of materials such as lubricating oils, plastics, resins, or liquors.

MANUFACTURED HOME - A dwelling unit which is fabricated in one or more sections at a location other than the home site by assembly line-type production techniques or by other construction methods unique to an off-site manufacturing process. A manufactured home is designed to be towed on its own chassis or be site delivered by alternative means. Every section shall bear a label certifying that it is built in compliance with the Federal Manufactured Home Construction and Safety Standards.

For manufactured homes built prior to June 15, 1976, a label certifying compliance to the Standard for Mobile Homes, NFPA 501, ANSI 119.1, in effect at the time of manufacture is required.

MANUFACTURED HOME PARK, APPROVED - A contiguous parcel of land operated as a unit, under the same ownership where six or more lots are rented for the temporary placement of manufactured homes, with all necessary facilities and services, and is approved by the City of Salem.

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

1. Physicians who are licensed pursuant to SDCL Ch. 36-4 or a podiatrist licensed pursuant to SDCL Ch. 36-8.

2. Registered nurses or licensed practical nurses who are licensed pursuant to SDCL Ch. 36-9.

3. Physician assistants who are licensed pursuant to SDCL Ch. 36-4A or certified nurse practitioners and certified nurse midwives who are licensed pursuant to SDCL Ch. 36-9A.

4. Physical therapists licensed pursuant to SDCL Ch. 36-10.

5. Athletic trainers licensed pursuant to SDCL Ch. 36-29.

6. Massage therapists licensed pursuant to SDCL Ch. 36-35.

7. Chiropractors licensed pursuant to SDCL Ch. 36-5.

MINI-WAREHOUSE - A building used primarily for the storage of goods and materials. The building shall be no more than 2,500 square feet.

MORTUARY - A place for the storage of human bodies prior to their burial or cremation.

MOTEL - A motel is an establishment consisting of a group of attached living or sleeping accommodations with bathroom and closet space, located on a single zoning lot, and designed for use by transient automobile tourists. A motel furnishes customary hotel services such as maid service and laundering of linen, telephone, and secretarial or desk service, and the use and upkeep of furniture. In a motel, less than fifty percent (50%) of the living and sleeping accommodations are occupied or designed for occupancy by persons other than transient automobile tourists. See (Hotel/Motel).

MOTOR VEHICLE - Any vehicle which is designed to travel along the ground or in the water and shall include but not be limited to automobiles, vans, buses, motorbikes, trucks, trailers, go-carts, golf carts, boats, ATVs, snowmobiles, and campers.

MOTOR VEHICLE REPAIR - Any building or premises involving the repair and/or painting of motor vehicle bodies or parts thereof and the rebuilding and/or overhauling of engines or transmissions.

MOTOR VEHICLE, COMMERCIAL - Any vehicle which has more than 16 square feet of signage or which is adapted, designed, equipped, and used to perform a specific commercial function and which does not meet the definition of Motor Vehicle, Personal/Passenger as defined herein.

MOTOR VEHICLE, INOPERABLE - A motor vehicle which is not in operating condition due to damage, removal, or inoperability of one or more tires and/or wheels, engine, or other essential parts, or which is not in operating condition due to damage or removal of equipment as required by the State of South Dakota for its lawful operation, or which does not have lawfully affixed thereto a valid state license plate, or which constitutes an immediate health, safety, fire or traffic hazard.

MOTOR VEHICLE, PERSONAL/PASSENGER - Any car, pickup-truck, or van which has no more than 16 square feet of signage and which is designed and facilitates personal/passenger travel and has not been externally altered with features not customary to personal usage.

MOTOR VEHICLE, RECREATIONAL - Any vehicle which is adapted, designed, and equipped to facilitate leisure time activities including but not limited to the following: ATVs, boats, motor bikes, snowmobiles, along with trailers to haul said vehicles; RVs and travel trailers.

MOTOR VEHICLE SALES, DISPLAY, AND RENTAL - The use of any building, land area, or premises, for the display, sale, or rental of new or used motor vehicles, and including any warranty repair work and other repair service conducted as an accessory use. The sale or display of inoperable motor vehicles is not allowable as part of this use category, see “JUNKYARD.”

MOTOR VEHICLE SERVICE STATION - Any building or premises which provides for the retail sale of gasoline, oil, tires, batteries and accessories for motor vehicles and/or for certain

motor vehicle services, including washings, tire changing, repair service, battery service, radiator service, lubrication, brake service, wheel service, and testing or adjusting of automotive parts. Motor vehicle repair work may be done at a motor vehicle service station provided that no rebuilding of engines, spray paint operations, or body or fender repair is conducted. Gasoline pumps and gasoline pump islands shall be located more than 12 feet from the nearest property line.

NEIGHBORHOOD UTILITY FACILITY - Telephone, electric, and cable television lines, poles, and equipment; water or gas pipes, mains and valves; sewer pipes and valves; lift stations; telephone exchanges and repeaters; and all other facilities and equipment (excluding buildings, facilities and above ground structures that exceed 120 square feet of area) necessary for conducting a service by a government or a public utility.

NONCONFORMING USE - A use of land, buildings, structures, or premises that lawfully existed prior to the adoption, revision, or amendment to this title, but which fails, by reason of such adoption, revision, or amendment, to conform to the present use restrictions of the zoning district in which it is located.

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

1. A sign is not visible from exterior of the structure and no other advertising appears indicating that a nude person is available for viewing.

2. A Student must enroll at least three days in advance of a class in order to participate.

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

NUDE, NUDITY OR STATE OF NUDITY - Any of the following:

1. The appearance of a human anus, genitals, or a female breast below a point immediately above the top of the areola.

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

NURSERY - Land or greenhouses used to raise flowers, shrubs, and plants for sale. See (Greenhouse).

NURSING HOME - An extended or intermediate care facility licensed or approved to provide full-time convalescent or chronic care to individuals who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves.

OFFICE BUILDING - A building designed for or used as the office of professional, commercial, industrial, financial, religious, institutional, public, or semipublic persons or organizations. Broadcast stations, offices, and studios shall be considered to be office buildings; broadcast towers as defined in this title shall not be so considered.

OFF-SALE ALCOHOLIC BEVERAGE ESTABLISHMENT - Any use which has been licensed to sell alcoholic beverages for consumption off the premises where sold.

ON-SALE ALCOHOLIC BEVERAGE ESTABLISHMENT - Any use which has been licensed to sell alcoholic beverages for consumption upon the premises where sold, except for special one-day liquor or special malt beverage licenses.

OUTDOOR STORAGE - The keeping, in an unroofed area, of any goods, material, merchandise, or vehicles in the same place for more than twenty-four (24) hours. Goods, material, merchandise, or vehicles shall not include items listed, nor be of a nature as indicated in the definition of junkyard as defined herein.

PARKING SPACE - A hard-surfaced area, enclosed or unenclosed, sufficient in size to park one motor vehicle. A parking space must be provided an unobstructed means of access, and all spaces shall meet the minimum criteria as prescribed by City Ordinance.

PARTY WALL - A common shared wall between two separate structures, buildings, or dwelling units.

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

PERMITTED USES - Any permissive or conditional uses allowed in a zoning district subject to the restrictions applicable to that zoning district.

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

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

PLANNING COMMISSION - The duly designated planning board of the municipality responsible for reviewing and approving applications for development and preparation of master plans and ordinances.

PRINCIPAL BUILDING - A building in which is conducted the primary or predominant use of the lot on which it is located.

PRINCIPAL USE - The primary or predominant use or building of any lot.

PRINTING PLANT - A commercial printing operation involving a process that is considered printing, imprinting, reproducing, or duplicating images and using printing methods including, but not limited to, offset printing, lithography, web offset, flexographic and/or screen process printing.

PRIVATE CLUB - A group of people organized for a common purpose to pursue common goals, interests, or activities, and usually characterized by certain membership qualifications, payment of fees and dues, regular meetings, and a constitution and bylaws.

PROJECTING SIGN - A sign other than a wall sign which is attached to and projects from a structure or building face.

PROPERTY LINE - See (Lot Line).

PUBLIC SERVICE FACILITY - Government facilities and uses that provide an essential public purpose or service including, but not limited to, a police station, judicial court, fire station, ambulance service, transit or transportation transfer station, library, community center, public recreation facility, or office, but not including public utility or treatment stations, maintenance facilities, sanitary landfills or facilities for incarcerated persons.

PUBLIC UTILITY FACILITIES - See (Neighborhood Utility Facilities). The definition is the same as the Neighborhood except that buildings, structures, and facilities that exceed 120 square feet in area are allowable.

QUARRY - A surface excavation used for the removal of rock, stone, sand, gravel, and fill dirt for sale or use off-site and includes sifting, crushing, and washing and bagging.

RECREATION FACILITY, COMMERCIAL - A place designed and equipped for the conduct of sports, leisure-time activities, and other customary and usual recreational activities, either active or passive and operated as a business and open to the public for a fee.

RECREATION FACILITY, PUBLIC - A recreation facility operated by a governmental agency and open to the general public with or without fees.

RECYCLABLE MATERIALS - Materials or products that may be readily separated from the solid waste stream and may be used or reused as a substitute for raw materials or other items, including but not limited to, aluminum, paper, glass, steel, and plastic.

RECYCLING COLLECTION FACILITY - An established facility where recyclable materials are collected for shipment off site, with no processing such as grinding or crushing of the materials. Fully enclosed automated self-service aluminum collection machines not more than 750 square feet are considered recycling collection facilities regardless of whether they contain a crusher or grinder. Facilities which handle recyclable hazardous materials, or waste petroleum products as a primary or substantial portion of their business are not included.

RECYCLING PROCESSING FACILITY - An established facility where recyclable materials are collected and/or processed for shipment off site, including processing operations such as grinding or crushing of the materials. No on-site sales of materials, nor salvage-type automobiles may be processed at these types of facilities. Facilities which handle recyclable hazardous materials, or waste petroleum products as a primary or substantial portion of their business are not included.

RESIDENCE - A permanent dwelling place.

RETAIL SERVICES AND TRADE - Establishments engaged in selling products, goods, or merchandise to the general public for personal or household consumption; and establishments engaged in providing services or entertainment to the general public including eating establishments, hotels, motels, repair shops, indoor amusement, copying services, health, professional, educational, and social services, and other miscellaneous services but does not include on-sale alcoholic beverage establishments.

RESTAURANT - An establishment where food and drink is prepared, served, and consumed primarily within the principal use.

ROOF SIGN - Any sign erected upon, against, or directly above a roof or on top of the parapet of a building.

ROOMING/BOARDING HOUSE - See (Boarding House).

SCHOOL, ELEMENTARY OR SECONDARY (HIGH SCHOOL) - Any building or part thereof, whether public or private, which is designed, constructed, or used for instruction in elementary or secondary (high school) education.

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

SETBACK/SETBACK LINE - That line that is the required minimum distance from any lot line that establishes the area within which the principal use must be erected or placed.

SHALLOW/SURFICIAL AQUIFER - An aquifer in which the permeable media (sand and gravel) starts near the land surface immediately below the topsoil. The shallow aquifer is further defined as an aquifer within fifty (50) feet or less below the land surface within fifteen (15) feet or less of continuous overlying, extremely low permeability material, such as clay, till or shale. Weathered till or highly fractured weathered shale is not an extremely low permeability material for purposes of this ordinance; or, the aquifer is greater than fifty (50) feet but less than one hundred (100) feet below the land surface with thirty (30) feet or less of continuous overlying low to extremely low permeability geological material that may be a combination of weathered and unweathered till, shale, or till and shale.

SIGN - Any object, device, display, or structure, or part thereof, situated outdoors or visible from outdoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination, or projected images. This definition does not include signs not exceeding 12 square feet for advertising the sale or lease of real estate, national or state flags or their emblem or insignia, interior window displays, athletic scoreboards, or the official announcements or signs of government.

SIGN AREA - The area of the largest single face of the sign within a perimeter which forms the outside shape including any frame which forms an integral part of the display, but excluding the necessary supports or uprights on which the sign may be placed. If the sign consists of more than one section or module, all areas will be totaled.

SIGN FACE (DISPLAY SURFACE) - The entire area of sign on which copy could be placed. See (“Sign Area”).

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.

SIGN STRUCTURE - Any structure which supports, has supported, or is capable of supporting a sign.

SIGN, WALL - A sign attached to or erected against a wall of a building and projecting no more than twelve (12) inches with the face in a parallel plane to the plane of the building wall.

SLAUGHTERHOUSE - A facility for the slaughtering and processing of animals and the refining of their by-products.

SOLID WASTE TRANSFER FACILITY - A fixed facility where solid waste from collection vehicles is consolidated and temporarily stored for subsequent transport to a permanent disposal site. This does not include an infectious waste incineration facility.

SPECIFIED ANATOMICAL AREAS - Any of the following:

1. A human anus, genitals, the pubic region, or a female breast below a point immediately above the top of the areola that is less than completely and opaquely covered.

2. Male genitals in a discernibly turgid state even if completely and opaquely covered.

SPECIFIC SEXUAL ACTIVITIES - Any of the following:

1. Human genitals in a state of sexual stimulation or arousal.

2. Sex acts, normal or perverted, actual or simulated, including acts of human masturbation, sexual intercourse, oral copulation, or sodomy.

3. Fondling or other erotic touching of the human genitals, pubic region, buttocks, anus or female breast.

4. Excretory functions as part of or in connection with any of the activities under subsection (1), (2), or (3) of this subdivision.

STORY - Story is that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement, cellar, or unused underfloor space is more than six (6) feet above grade as defined herein for more than 50 percent of the total perimeter or is more than twelve (12) feet above grade as defined herein at any point, such basement cellar or unused under-floor space shall be considered a story.

STREET - A public way which affords the principal means of access to abutting property.

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

STREET, COLLECTOR - A street which carries traffic from local streets to arterial streets or highways, including the principal entrance streets of a residential development and streets for circulation in such development.

STREET, LOCAL - A street intended to provide access to other streets from individual properties and to provide right-of-way beneath it for various utilities but not intended to be used for through traffic.

STRUCTURAL ALTERATION - Any change or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders, or any complete rebuilding of the roof or the exterior walls.

STRUCTURE - Anything constructed or erected on the ground or attached to the ground with a fixed location on the ground or attached to something having a fixed location on the ground. Among other things, structures, include buildings, walls, fences, signs, docks, dams, manufactured homes, and sheds.

TANK FARM - An open air facility containing a number of above-ground, large containers for the bulk storage in liquid form of petroleum products.

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

TEMPORARY SIGN - A banner, pennant, poster, or advertising display constructed of cloth, canvas, plastic, wallboard, or other like materials, and intended to be displayed for a limited period of time.

TELECOMMUNICATIONS TOWER HEIGHT - The vertical distance above grade to the highest point of the telecommunications tower, including the base pad and any antenna.

TELECOMMUNICATIONS TOWER SITE - The telecommunications tower site shall be the lot of record for which the telecommunications tower is located.

TRAVEL TRAILER - Means any of the following:

1. Travel Trailer. A vehicular, portable structure built on a chassis, designed to be used as temporary dwelling for travel, recreational, and vacation uses, 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 any integral part of a self-propelled vehicle.

4. Camping Trailer. A canvas, folding structure, mounted on wheels and designed for travel, recreation, and vacation use.

TREE, REQUIRED - A tree which is required by this ordinance and meets or exceeds the minimum specifications according to tree type.

USE, ACCESSORY - See (Accessory Building or Use).

USE, PERMITTED - A permitted use is a use which may be lawfully established in a particular district or districts, provided it conforms with all requirements and regulations of such district in which such use is located.

USE, PRINCIPAL - A principal use is the main use of land or buildings as distinguished from a subordinate or accessory use. A principal use includes off-premise advertising.

WAREHOUSE - A building used primarily for the storage of goods and materials.

WASTE - Any garbage, refuse, sludge from a waste treatment plant, waste supply treatment plant, or air pollution control facility and other discarded materials, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, or agricultural operations, or 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 material as defined by the Atomic Energy Act of 1954, as amended to January 1, 1986.

WHOLESALE MERCHANDISING /WHOLESALE 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 (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.

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

YARD, FRONT - A yard across the full width of the lot extending from the front line of the main building to the front line of the lot.

YARD, REAR - A yard extending a full width of the lot between a principal building and the rear lot line.

YARD, REQUIRED FRONT - The required front yard shall extend across the front of a lot between the said property lines. There shall be a required front yard on each street side of a corner lot. The required front yard with the smallest required front yard may be referred to as the side-street-side front yard.

YARD LINE - See (Building Line).

YARD, REQUIRED REAR - The required rear yard shall extend across the rear of a lot between the said property lines. On corner lots, the required rear yard may be to the rear of either street. On interior lots, the required rear yard shall, in all cases, be at the opposite end of the lot from the front yard.

YARD, REQUIRED - Shall mean the required open space between a property line and a building line. The open space shall be unoccupied and unobstructed from the ground upwards except as otherwise provided in this title.

YARD, REQUIRED SIDE - The required side yard shall extend between the required front yard line and the required rear yard line. There shall only be one required side yard on a corner lot.

YARD, SIDE - A yard between the main building and the side line of the lot and extending from the front yard line to the rear yard line.

ZONE - A specifically delineated area or district of the City of Salem within which regulations and requirements uniformly govern the use, placement, spacing, and size of land and buildings.