

**PENNINGTON COUNTY ZONING ORDINANCE  
PENNINGTON COUNTY, SOUTH DAKOTA**

**SECTION 100 - STATUTORY AUTHORIZATION AND JURISDICTION**

**SECTION 101 - STATUTORY AUTHORIZATION**

Whereas, Chapter 11-2, South Dakota Codified Laws, 1967, as amended, has delegated the responsibility to the Board of County Commissioners of each county to adopt and enforce regulations designed for the purpose of promoting health, safety, morals, and the general welfare of the County, therefore, the Board of County Commissioners of Pennington County, South Dakota, hereby ordains as follows:

**SECTION 102 - JURISDICTION**

This Zoning Ordinance shall govern all unincorporated lands within the jurisdiction of the Board of County Commissioners for Pennington County, South Dakota.

**SECTION 103 - DEFINITIONS**

Unless specifically defined below, words used in these Zoning Ordinances are to be understood in their ordinary sense, except as they may be defined in general in SDCL 2-14.

**ACCESSORY:** Incidental to a primary use or structure on the same lot.

**ADULT BOOKSTORE, ADULT NOVELTY STORE OR ADULT VIDEO STORE:** A commercial establishment, which, as one of its principal purposes, offers for sale or rental for any form of consideration any one or more of the following:

- a. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas;" or,
- b. Instruments, devices, or paraphernalia that are designed for use in connection with "specified sexual activities."

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as ADULT BOOKSTORE, ADULT NOVELTY STORE or ADULT VIDEO STORE. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an ADULT BOOKSTORE, ADULT NOVELTY STORE or ADULT VIDEO STORE so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas." A principal business purpose is defined as a business that maintains at least 40% of its inventory items for sale or rent that are characterized by an emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas."

The definition under this subsection shall not include a store that, as its principal business purpose, sells or rents films, motion pictures, video cassettes, video reproductions or other visual representations that contain an official industry rating of G, PG, PG 13, R or NC 17.

**ADULT CABARET:** A nightclub, bar, juice bar, restaurant, bottle club or similar commercial establishment whether or not alcoholic beverages are served which regularly features persons who appear nude or semi-nude.

**ADULT MOTEL:** A hotel, motel or similar commercial establishment which offers accommodations to the public in any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, DVD's or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; and has a sign visible from a public right-of-way which advertises the availability of this adult type of photographic reproductions. A hotel, motel or similar commercial establishment which offers a sleeping room for rent for a period of time that is less than ten (10) hours. A hotel, motel or similar commercial establishment which allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.

**ADULT MOTION PICTURE THEATER OR DRIVE-IN THEATER:** An enclosed building or outdoor drive in theater used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as herein defined, for observation by patrons therein. The definition under this subsection shall not include a store that, as its principal business purpose, sells or rents or shows films, motion pictures, video cassettes, video reproductions, DVD's or other visual representations that contain an official industry rating of G, PG, PG 13, R, or NC 17.

**ADULT ORIENTED BUSINESSES:** An adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theatre, adult photo studio or nude model studio.

**ADULT PHOTO STUDIO:** An establishment, which, on payment of a fee, provides models for the purpose of photographing "specified anatomical areas."

**AIRPORT:** A place from which aircraft operate that usually has paved runways and maintenance facilities.

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**AIRPORT HEIGHT & HAZARD ZONING DEFINITIONS: (SECTION 301)**

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**APPROACH SURFACE:** A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in Section 301 of this Ordinance. In plan, the perimeter of the approach surface coincides with the perimeter of the approach zone.

**APPROACH, TRANSITIONAL, HORIZONTAL, AND CONICAL ZONES:** These zones are set forth in Section 301 of this Ordinance.

**CONICAL SURFACE:** A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.

**HAZARD TO AIR NAVIGATION:** An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

**HORIZONTAL SURFACE:** A horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.

**LARGER THAN UTILITY RUNWAY:** A runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet-powered aircraft.

**NON-PRECISION INSTRUMENT RUNWAY:** A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned.

**OBSTRUCTION:** Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section 301(D) of this Ordinance.

**PRECISION INSTRUMENT RUNWAY:** A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.

**PRIMARY SURFACE:** A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; for military runways or when the runway has no specially prepared hard surface or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface is set forth in Section 301C of this Ordinance. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

**RUNWAY:** A defined area on an airport prepared for landing and takeoff of aircraft along its length.

**TRANSITIONAL SURFACES:** These surfaces extend outward at 90-degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at 90-degree angles to the extended runway centerline.

**UTILITY RUNWAY:** A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less.

**VISUAL RUNWAY:** A runway intended solely for the operation of aircraft using visual approach procedures.

**ARSD – Administrative Rules of South Dakota.**

**ASSEMBLY:** A gathering together of people at any location, at any single time, for any purpose other than regularly established permanent places of worship, government-sponsored fairs, rodeos, farm sales, auctions, family gatherings, or assemblies licensed under other laws.

**AUTOMOBILE REPAIR SHOP:** An area of land, including structures thereon, that is used for the repair and servicing of automobiles.

**AUTOMOBILE WRECKING:** The dismantling, storage, sale, crushing or dumping of used motor vehicles, trailers or parts thereof, or the accumulation of four (4) or more unlicensed vehicles in a residential area.

**BAKERY:** A place where breads, confections and pastries are produced and sold.

**BASEMENT:** A story partly underground and having at least one-half of its height above the average level of the adjoining ground. A basement shall be counted as one-half story.

**BEDROOM:** Any portion of a dwelling which is so designed as to furnish the minimum isolation necessary for use as a sleeping area. It may include, but is not limited to, a den with a closet or a study with a closet. Estimates of wastewater generated are based on two persons per bedroom.

**BOARD:** The Pennington County Board of Commissioners.

**BOARD OF ADJUSTMENT:** The Pennington County Board of Commissioners.

**BUILDABLE AREA OF A LOT:** That portion of a lot bounded by the required rear and side yards and front yard of the building setback line.

**BUILDING:** Any structure, either temporary or permanent, having a roof or other covering designed and used for the shelter or enclosure of any person, animal, or property of any kind.

**CHILD CARE CENTER:** A facility, by whatever name, in which care is provided on a regular basis for seven (7) or more children, under twelve (12) years of age, at one time, including children related to the operator or manager thereof. Such facilities include those commonly known as daycare centers, day nurseries, and play groups, but exclude foster homes and family daycare homes.

~~**CLINIC:** A facility where medical or dental care is furnished to persons on an outpatient basis only.~~

**COMMERCIAL AUTOMOBILE WRECKING YARD:** The dismantling, storage, sale, crushing or dumping of used motor vehicles, trailers or parts thereof.

**COMMERCIAL JUNK OR SALVAGE YARD:** A structure, lot or premises where junk is bought, sold, exchanged, stored, placed, packed, baled, disassembled, crushed, handled or prepared for recycling. A commercial automobile wrecking yard is classified as commercial junk or salvage yard.

COMMISSION: The Pennington County Planning Commission.

CONSTRUCTION PERMITS DEFINITIONS: (SECTION 507)

BEST MANAGEMENT PRACTICES (BMP): Non-structural or structural device, measure, facility, or activity which helps to achieve soil erosion and storm water management control objectives at a site.

CLEAN WATER ACT (CWA): The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

CLEARING: Any activity that removes the vegetative surface cover.

CONSTRUCTION ACTIVITY: Ground surface disturbing activities, which include, but are not limited to, clearing, grading, excavation, demolition, installation of new or improved haul roads and access roads, staging areas, stockpiling of fill materials, and borrow areas. Construction Activity does not include routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of the facility.

CONSTRUCTION PERMIT: Permit issued by Pennington County for construction, excavating, clearing, and/or any land disturbing activity.

DISTURBANCE: Any type of activity that involves grading, clearing, moving topsoil, rock, or any other natural surface from property. Includes bringing in fill material on to the site.

DRAINAGE WAY: A channel that conveys surface runoff throughout the site.

EROSION CONTROL: Measures which prevent erosion.

ILLICIT DISCHARGE: Any direct or indirect non-storm water discharge to the storm drain system.

ILLICIT CONNECTION: Either of the following:

- a. Any drain or conveyance, whether on the surface or subsurface, which allows an Illicit Discharge to enter the storm drain system, including but not limited to, any conveyance which allows any non-storm water discharge to enter the storm drain system and any connections to the storm drain system from indoor drains, sinks, or toilets, regardless of whether said drain or conveyance had been previously allowed, permitted, or approved; or,
- b. Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by DENR.

IMPERVIOUS AREA: Impermeable surfaces such as paved driveways, parking areas, sidewalks, or roads which prevent infiltration of water into soil.

**INDUSTRIAL DISCHARGE:** The discharge from any conveyance which is used for collecting and conveying storm water and which is directly related to manufacturing, processing, or raw materials storage areas at an industrial plant. The term does not include discharges from facilities or activities excluded from the NPDES program under 40 CFR Part 122.

**MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4):** A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains):

- a. Owned and operated by a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States;
- b. Designed or used for collecting or conveying storm water;
- c. Which is not a combined sewer;
- d. Which is not part of a Publicly Owned Treatment Works as defined at 40 CFR §122.2; and,
- e. Determined by the EPA from census data identified in Appendix A – Urbanized Areas of the Pennington County Storm Water Management Plan.

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER PERMIT:** A permit issued by the Environmental Protection Agency (or DENR under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to Waters of the State, whether the permit is applicable to an individual, group, or geographic area.

**NON-STORM WATER DISCHARGE:** Any discharge to the storm drain system that is not composed entirely of storm water.

**PERMITTEE:** Person(s) or entity to whom the Construction Permit from Pennington County is issued.

**POLLUTANT:** Any dredged spoil, solid waste, incinerator residue, sewage, sewage sludge, garbage, trash, munitions, chemical wastes, biological material, radioactive material, heat, wrecked or discarded equipment, rock, sand, cellar dirt, or other industrial, municipal, or agricultural waste discharged into Waters of the State. This term does not mean sewage from watercraft; or water, gas, or other material which is injected into a well to facilitate production of oil or gas; or water derived in association with oil and gas production and disposed of in a well, if the well is used to facilitate production or for disposal purposes and is approved by the appropriate state authority.

**SITE PLAN:** Plan showing, in detail, the boundaries of a site and the location of all improvements, utilities, drainage, structures, and specific measures, and their location, used to control sediment and erosion, for a specific parcel of land.

**STABILIZATION** – The use of practices that limit exposed soils from eroding, including but not limited to grass, trees, sod, mulch, or other materials which prevent erosion and maintain moisture.

**STORM DRAIN SYSTEM:** Refer to “Municipal Separate Storm Sewer System” definition.

**STORM WATER:** Any surface flow, runoff, and/or drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

**STORM WATER POLLUTION PREVENTION PLAN (SWPPP):** A plan identifying potential sources of storm water pollution at a construction site and specifying structural and non-structural controls that will be in place to minimize negative impacts caused by storm water discharges associated with construction activity. The purpose of these controls is to minimize erosion and run-off of pollutants and sediment.

**WATERCOURSE:** A natural or artificial channel through which storm water or flood water can flow, either regularly or intermittently.

**WATER QUALITY STANDARDS:** A water quality standard defines the water quality goals of a water body, or a portion of the water body. The water quality standards regulations establish the use or uses to be made of a water body, set criteria necessary to protect the uses, and establish policies to maintain and protect water quality. South Dakota has developed surface water quality standards for all Waters of the State, as required by the Clean Water Act.

**CONTRACTOR’S EQUIPMENT STORAGE YARD:** A facility for the storage of equipment, material, and supplies used in conjunction with a contractor’s business.

**CORNER LOT:** A lot of which at least two adjoining sides abut for their full lengths on a street, providing that the interior angle at the intersection of the two such sides is less than one hundred thirty-five (135) degrees.

**COVERAGE:** The lot area covered or occupied by all buildings located therein, including the area covered by all overhanging roofs.

**DELI:** A place where domestic and imported meats, cheeses, wines (with the proper licenses) and prepared foods are sold. Equipment and ingredients for home and/or garden may also be sold.

**DENR:** Department of Environment and Natural Resources (State of South Dakota).

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**DEVELOPMENTAL LOT:** Two or more lots or portions of lots with continuous frontage in single ownership of record prior to February 1, 1994, where all or part of the lots do not meet the requirements established for lot width and area, which for the purposes of these Zoning Ordinances shall be considered to be an undivided lot.

**DISTRICT:** An area of land under the jurisdiction of these Zoning Ordinances for which the regulations governing the use of land are unique and uniformly applied.

**DOUBLE FRONTAGE LOT:** A lot, which runs through a block from street to street excluding the side dimension of a corner lot.

**DRIVE-IN:** A business establishment so developed that its retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles to serve patrons while in the motor vehicle.

**DWELLING:** Any structure, building, or any portion thereof which is used, intended, or designed to be occupied for human living purposes including, but not limited to, houses, mobile homes, hotels, motels, apartments, business, and industrial establishments.

**FAMILY:** An individual or a group of two (2) or more persons related by blood, marriage or adoption, including foster children and domestic servants, or a group not to exceed five (5) persons not related by blood, marriage or adoption, living together as a single housekeeping unit and using common cooking facilities.

**FAMILY CARE FACILITY:** A home approved under SDCL 28-1-40 or licensed under SDCL 34-12-1 which provides resident service, except nursing care to the sick or injured, to a small number of adults determined by the State Department of Social Services, or the Department of Health, not related to the resident household by blood or marriage. These individuals are aged, blind, physically or developmentally disabled and receive care and service according to their individual needs in a family situation.

**FAMILY DAYCARE HOME:** A facility providing care and supervision of children from more than one unrelated family, in a family home, on a regular basis for part of a day, as a supplement to regular parental care, for no greater than twelve (12) children at any time, including children under the age of six (6) years related to the owners, operators, or managers thereof, without transfer of legal custody or placement for adoption.

**FARMERS MARKET:** A place where vendors offer the community new/fresh products, including but not limited to: dairy, produce, livestock, meats and all other agriculture products for the home and garden.

**FEED LOT, COMMERCIAL:** A lot for the concentrated feeding of livestock, fowl, or fur animals where such feeding is not done as an accessory use to the production of crops on the premises of which the feed lot is a part.

**FLOOR AREA:** The total gross area on all floors as measured to the outside surfaces of exterior walls, excluding crawl spaces, garages, carports, breezeways, attics without floors and open porches, decks, balconies, and terraces.

**FRONT LOT LINE:** The line separating said lot from the street.

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

**GARAGE:** A fully enclosed building designed for the storage of motor vehicles.

**GOVERNMENT AGENCY:** Any department, commission, independent agency or instrumentality of the United States, of a state, county, incorporated or unincorporated municipality, township, authority, district, volunteer fire department, or other governmental unit.



**GROUP FACILITIES:** A facility, licensed by the appropriate state or local agency, which provides resident service to five or more individuals of whom one or more are unrelated. These individuals are handicapped, aged or disabled, are undergoing rehabilitation and are provided services to meet their needs. This category includes uses, licensed or supervised by any federal, state or county health/welfare agency, such as group homes (all ages), halfway house, resident schools, resident facilities and foster or boarding homes.

**GUEST HOUSE:** Living quarters within a detached accessory building located on the same premises with the main building for use by guests of the occupants of the premises.

**HEIGHT:** The vertical distance from the highest point on a structure, excepting any chimney or antenna on a building, to the average ground level of the grade where the walls or other structural elements intersect the ground. For the purpose of determining the height limits in all zones set forth in this Ordinance and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

**HIGHWAY:** Every way or place of whatever nature open to the public, as a matter of right, for purposes of vehicular travel, is a highway. The term "highway" shall also include private access easements and roadways.

**HISTORICAL MONUMENTS AND/OR STRUCTURES:** Any structure or building existing contemporaneously with and/or commonly associated with the outstanding person, event or period of history, and any structure or building in which the relics and/or mementos of such person, event, or period are housed and preserved.

**HOME OCCUPATION:** A use conducted entirely within an enclosed structure (other than a mobile home), which is clearly incidental and secondary to the residential occupancy and does not change the character of the property.

**HOME OFFICE:** An occupation, profession, or activity conducted by members of the family residing on the premises and no additional employees which is clearly incidental use of a residential dwelling unit and does not alter the exterior appearance of the property or affect the residential character of the neighborhood. No home office shall be conducted in any accessory structures. A home office shall not allow any storage of materials, stock or equipment, except for product samples stored wholly within the structure and customary office equipment used in the operating of the business; shall not have any customer traffic physically visiting the residential dwelling unit, and shall not allow any signage advertising the home office or activity.

**HOTEL:** A building designed, used, or offered for temporary residential occupancy, including tourist homes and motels, but not including hospitals or nursing homes.

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

**ISOLATED CABINS:** Isolated recreation cabins located on National Forest Land on sites not planned or designated for recreational cabin purposes. Use of these cabins originated from situations other than occupancy trespassed of invalid mining claims.

**JUNK:** Used machinery, scrap, iron, steel, other ferrous and nonferrous metals, tools, implements, appliances or portions thereof, glass, plastic, paper or paper products, building materials, or other waste that has been abandoned from its original use and may be used again in its present or in a new form.

**KENNEL:** A shelter for the breeding and boarding of four (4) or more dogs more than six (6) months of age.

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

**LOCAL CONTACT:** a local property manager, owner or agent of the owner, who is authorized to respond to questions, concerns, and emergencies.

**LOT:** A portion of a subdivision, or any other parcel of land intended as a unit for transfer of ownership or for development or both and shall not include any part of the right-of-way of a street or road.

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

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

**LOT LINES:** The lines bounding a lot as defined herein.

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

**MANUFACTURED HOME:** A factory-built, single-family structure that is manufactured under the authority of the National Manufactured Home Construction and Safety Standard Act of 1974, which became effective June 15, 1976, is transportable in one or more sections, is built on a permanent chassis, and is used as a place of human habitation.

**MOBILE HOME:** A transportable, factory-built home, designed to be used as a year-round single-family residential dwelling unit and not constructed to the Federal Manufactured Housing Construction and Safety Standard Act of 1974, which became effective June 15, 1976.

**MOBILE HOME PARK:** Any parcel of land with a minimum of ten (10) mobile home spaces as herein defined are placed, located or maintained, or intended to be placed, located or maintained, including all accessory buildings used or intended to be used as part of the equipment thereof. In the mobile home park, all land is intended to be held in common ownership, with individual mobile home spaces rented to residents.

**MOBILE HOME SPACE:** A plot of ground within a mobile home park, which is designed as the location for one (1) mobile home and any customary accessory use thereof.

**MOBILE HOME SUBDIVISION:** Any parcel of land, subdivided according to County Subdivision Ordinances, which has been issued a Conditional Use Permit to locate mobile homes. The mobile home subdivision is intended to be an area where lots are sold to individual mobile home owners. Mobile home subdivisions are subject to all restrictions of the district in which they are located.

**MODEL HOME AND SALES OFFICE:** A dwelling unit used initially for display purposes, which typifies the type of unit that will be sold and constructed, including accessory office space used for the sale of the dwelling units.

**MODULAR HOME:** A factory fabricated transportable building consisting of units installed on a permanent foundation construction, as per manufacture's recommendation, and used as a single-family residential dwelling unit.

**MOTEL:** A building or group of buildings used for the temporary residence of motorists or travelers.

**MOTOR VEHICLE:** Every vehicle which is self-propelled by power other than muscular power.

**MULTIPLE-FAMILY DWELLING:** A structure designed or used for residential occupancy by two or more families living independently of each other, which may include, but not limited to: condominiums, townhomes, apartments and assisted living/nursing homes.

**NONCOMMERCIAL AUTOMOBILE WRECKING YARD:** A lot or premises where used motor vehicles, mobile homes, trailers or parts thereof, are dismantled, stored, or dumped where said vehicles, or parts thereof, are to be used by the owner of the property. The presence on any lot or premises of four or more motor vehicles, whether licensed or unlicensed, which, for a period exceeding thirty (30) days, have not been capable of operating under their own power or from which parts have been or are to be removed for reuse shall be classified as a noncommercial automobile wrecking yard. This definition shall not apply to property meeting the criteria for classification of land as agricultural as determined by the County Director of Equalization's Office.

**NONCOMMERCIAL JUNK OR SALVAGE YARD:** A structure, lot, or premises where junk is stored, placed, packed, baled, disassembled, crushed, handled, or prepared for recycling. A noncommercial automobile wrecking yard is classified as a noncommercial junk or salvage yard.

**NONCONFORMING USE:** A building, structure, or use of land existing at the time of enactment of these Zoning Ordinances and which does not conform to the regulations of the district in which it is situated. Any preexisting structure, object of natural growth, or use of land, which is inconsistent with the provisions of this Ordinance or an amendment thereto.

**NUDE MODEL STUDIO:** Any place where a person who appears nude, or who displays "specified anatomical areas" and is provided to be sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. Nude Model Studio shall not include a proprietary school licensed by the State of South Dakota, or a college, junior college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.

**NURSING HOME:** A structure designed or used for residential occupancy and providing limited medical or nursing care on the premises for occupants, but not including a hospital or mental health center.

## ON-SITE WASTEWATER TREATMENT SYSTEM DEFINITIONS: (SECTION 204-J)

**ABSORPTION BED:** A subsurface absorption system which consists of excavations wider than three feet each, no more than 36 inches deep, containing a minimum depth of 12 inches of clean aggregate, together with a system of absorption lines, through which effluent may seep or leach into surrounding soils.

**ABSORPTION FIELD:** The soil or soils through which wastewater from an absorption system percolates.

**ABSORPTION SYSTEM:** A system which utilizes absorption lines (i.e. perforated pipe, gravelless pipe or chambers) in trenches or beds to distribute wastewater to adjacent soils in an absorption field.

**ABSORPTION TRENCH:** A long, narrow excavation made in soil for the placement of an absorption line.

**ALTERNATIVE ON-SITE WASTEWATER TREATMENT SYSTEM:** A system for treatment and disposal of domestic wastewater or wastes which consists of a building sewer, a septic tank or other sewage treatment or storage unit, and a disposal facility or method which is not a conventional system; but not including a surface discharge to the waters of the state.

**BEDROCK:** The rock, usually solid, that underlies soil or other unconsolidated, superficial material.

**BUILDING SEWER:** A pipe that conveys wastewater from a building to the first on-site wastewater treatment system component or sewer main.

**CERTIFICATION:** Program to substantiate the capabilities of a service provider by documentation of experience and learning.

**CESSPOOL:** An underground pit into which raw household wastewater is discharged and from which the liquid seeps into the surrounding soil; may or may not be partially lined; if septic tank effluent is discharged to such a component it is considered a seepage pit.

**CHAMBERED TRENCH:** A type of absorption system where the media consists of an open bottom, chamber structure of an approved material and design, which may be used as a substitute for the gravel media with a perforated distribution pipe.

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**CHANGE IN DESIGNATION:** Any alteration or modification in the specified zoning, change in use (i.e. Conditional Use Permit), or change to platting for a parcel or property.

**CISTERN:** A watertight receptacle of nontoxic material designed for the storage of potable water.

**CURTAIN DRAIN:** Any groundwater interceptor or drainage system that is gravel backfilled and is intended to interrupt or divert the course of shallow groundwater or surface water away from the on-site wastewater treatment system. (Also known as a "french drain")

**DISPERSAL SYSTEM:** A system for the distribution of effluent into the final receiving environment by such methods as transpiration, evapotranspiration, soil absorption or other DENR-approved dispersal methods.

**DISTRIBUTION BOX:** A watertight structure which receives septic tank effluent and distributes it concurrently, in essentially equal portions, into two or more distribution pipes leading to an absorption system.

**DISTRIBUTION PIPE:** Approved perforated pipe used in the dispersion of septic tank effluent.

**DOMESTIC WASTEWATER:** Effluent from a septic tank or other treatment device originating from plumbing fixtures and appliances such as sanitary (toilets), bath, laundry, dish washing and garbage disposals.

**DROP BOX:** A watertight structure which receives septic tank effluent and distributes it into one or more distribution pipes and into an overflow leading to another drop box and absorption system located at a lower elevation.

**EFFLUENT:** The partially or completely treated liquid waste discharge containing fecal and urinary waste from a wastewater treatment system.

**EFFLUENT LIFT PUMP:** A pump used to lift septic tank effluent to a disposal area at a higher elevation than the septic tank.

**EJECTOR PUMP:** A device to elevate or pump untreated sewage to a septic tank, public sewer, or other means of disposal.

**EVAPOTRANSPIRATION SYSTEM:** An imperviously lined dispersal system that uses a process of evaporation and plant transpiration to withdraw water from the soil.

**EXPERIMENTAL ON-SITE WASTEWATER TREATMENT SYSTEM:** An on-site wastewater treatment and/or disposal system which is still in experimental use and requires further testing in order to provide sufficient information to determine its acceptability.

**GRAYWATER:** The wastewater generated by water-using fixtures and appliances which do not discharge garbage or urinary or fecal wastes.

**GRAYWATER SYSTEM:** A wastewater system designed to recycle or treat wastes from sinks, tubs, showers, washers, or other devices which do not discharge garbage or urinary or fecal wastes. See "graywater" definition.

**GREASE INTERCEPTORS:** An outdoor unit similar to a septic tank, used to remove, by flotation, excessive amounts of grease and oils which may interfere with subsequent treatment of the waste (also known as "grease traps").

**GROUNDWATER:** That portion of subsurface water that is in the zone of soil or rock saturation.

**GROUNDWATER TABLE:** The surface of a body of unconfined groundwater in which the pressure is equal to that of the atmosphere.

**GROUNDWATER TABLE, PERCHED:** Unconfined groundwater separated from an underlying body of groundwater by an unsaturated zone. Its water table is a perched water table. It is underlain by a restrictive strata or impervious layer. Perched groundwater may be either permanent, where recharge is frequent enough to maintain a saturated zone above the perching bed, or temporary, where intermittent recharge is not great or frequent enough to prevent the perched water from disappearing from time to time as a result of drainage over the edge of or through the perching bed.

**INSTALLER:** Service provider who is certified to construct an on-site wastewater treatment system.

**INVERT:** The lowest portion of the internal cross section of a pipe or fitting.

**LIQUID WASTE OPERATION:** Any business activity or solicitation, by which liquid wastes are collected, transported, stored, or disposed of by a collection vehicle. This shall include, but not be limited to, the cleaning out of septic tanks, sewage holding tanks, chemical toilets, and vault privies.

**LIQUID WASTE PUMPER:** Service provider who removes the contents of septic tanks, pump tanks, holding tanks, and advanced treatment units and disposes of the waste according to 40 C.F.R. part 503 (October 25, 1995).

**MAJOR COMPONENT REPAIR OR REPLACEMENT:** Repairs to or replacement of an on-site wastewater treatment system major component include the following:

- a. Septic/holding tank removal/addition.
- b. Addition, expansion or replacement of drainfield area.
- c. Change in type of system (i.e. trench system to mound system).
- d. Movement of system to a replacement area.
- e. Conversion to/from an alternative or experimental system.

**MALFUNCTIONING OR FAILING SYSTEM:** An on-site wastewater treatment system which is not functioning in compliance with the requirements of this Ordinance includes the following:

- a. Absorption systems which seep or flow to the surface of the ground or into waters of the state.
- b. Systems which have overflow from the absorption system.
- c. ~~Systems which, due to failure to operate in accordance with their designed operation, cause backflow into any portion of a building plumbing system.~~
- d. Septic tanks or holding tanks which leak.
- e. Absorption systems installed in bedrock or in the groundwater table.
- f. Steel septic tanks or steel holding tanks.
- g. Any other on-site wastewater treatment system not defined as a conventional or alternative system. (i.e.: cesspools, seepage pits, and pit privies).

**MAXIMUM GROUNDWATER TABLE:** The highest elevation that the top of the "groundwater table" or "groundwater table, perched" is expected to reach for any reason over the full operating life of the on-site wastewater treatment system at that site as determined by the profile hole evaluation.

**MOUND SYSTEM:** An alternative on-site wastewater treatment system where the bottom of the absorption system is placed above the elevation of the existing site grade, and is contained in a mounded fill body above that grade.

**NON-DOMESTIC WASTEWATER:** Water or liquid-carried waste, including but not limited to, water or wastes from an industrial process resulting from industry, manufacture, trade, automotive repair, vehicle wash, business or medical, activity; this wastewater may contain toxic or hazardous constituents.

**ON-SITE WASTEWATER TREATMENT SYSTEM:** A system designed to contain, distribute, or treat wastewater on or near the location where the wastewater is generated, including sewers, septic tanks, absorption fields, mound systems, evapotranspiration systems, vault privies, holding tanks, subsurface sand filters, graywater systems, pumping stations, dosing chambers, any equipment related to on-site wastewater treatment systems and/or any other approved alternative or experimental system.

**OVERLAY DISTRICT:** A district that is superimposed over one or more zoning districts or parts of districts and imposes specified requirements that are in addition to those otherwise applicable for the underlying zone.

**OWNER:** A person or persons who are the owner of record of the land on which an on-site wastewater treatment system is to be or has been designed, constructed, installed, altered, extended, or operated

**PERCOLATION RATE:** The time expressed in minutes per inch required for water to seep into saturated soil at a constant rate during a percolation test.

**PERCOLATION TEST:** A soil test at the depth of a proposed absorption system to determine the water absorption capability of the soil, the results of which are normally expressed as the rate at which one inch of water is absorbed over an interval of time.

**POLLUTION:** Any man-made or man-induced alteration of the chemical, physical, biological, or radiological integrity of any waters of the state, unless the alteration is necessary for public health and safety.

**POTABLE:** Water of sufficient quality to serve as drinking water; presumed to meet safe drinking water standards.

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**PUBLIC HEALTH HAZARD:** For the purpose of this Ordinance, a condition whereby there are sufficient types and amounts of biological, chemical, or physical agents relating to water or sewage which are likely to cause human illness, disorders or disability. These include, but are not limited to, pathogenic viruses and bacteria, parasites, toxic chemicals and radioactive isotopes. A malfunctioning or failing on-site wastewater treatment system constitutes a public health hazard.

**REPAIR:** Action of fixing or replacing substandard or damaged components; repairs can be categorized as required repairs, recommended repairs, and upgrades.

**REPLACEMENT AREA:** Sufficient land with suitable soil, excluding streets, roads, and permanent structures, which complies with the setback requirements of these rules, and is intended for the 100 percent replacement of absorption systems.

**SEEPAGE PIT:** An excavation (deeper than it is wide) which receives septic tank effluent and from which the effluent seeps into the surrounding soil through the bottom and openings in the side of the pit; emphasis is on disposal rather than treatment.

**SEPTAGE:** The liquid and solid material pumped from a septic tank, cesspool, or similar domestic sewage treatment system, or a holding tank when the system is cleaned or maintained.

**SEPTIC TANK:** Water-tight, covered receptacle for treatment of sewage; receives the discharge of sewage from a building, separates settleable and floating solids from the liquid, digests organic matter by anaerobic bacterial action, stores digested solids through a period of detention, allows clarified liquids to discharge for additional treatment and final dispersal, and attenuates flows.

**SERVICE PROVIDER:** Any person who performs work in relation to on-site wastewater treatment systems; this includes installers, O&M service providers, and liquid waste pumpers.

**SEWAGE:** Untreated wastes consisting of blackwater and graywater from toilets, baths, sinks, laundries, and other plumbing fixtures in places of human habitation, employment or recreation.

**SEWAGE HOLDING TANK:** A watertight receptacle which receives water-carried wastes from the discharge of a drainage system and retains such wastes until removal and subsequent disposal at an approved site or treatment facility.

**SLUDGE:** Accumulated solids and associated entrained water within a pretreatment component, generated during the coagulation, clarification or biological, physical, or chemical treatment of wastewater.

**SOIL EXPLORATION PIT:** An open pit dug to permit examination of the soil to evaluate its suitability for absorption systems.

**SOIL SCIENTIST:** An individual qualified to conduct soil surveys. A soil scientist is qualified if:

- a. He or she is certified as a soils scientist/classifier by the ARCPACS (A Federation of Certifying Boards in Agronomy, Biology, Earth and Environmental Sciences); or
- b. He or she has a Bachelor's, Master's or Doctoral degree in soil science.

**STATIC WATER LEVEL:** Elevation or level of the water table in a well when the pump is not operating or the level or elevation to which water would rise in a tube connected to an artesian aquifer or basin in a conduit under pressure. (USEPA)



**VAULT PRIVY:** An enclosed non-portable toilet into which non-water-carried human wastes are deposited to a subsurface storage chamber that is water tight.

**WASTE OR POLLUTANT:** Dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water.

**WASTEWATER:** Clear water, storm water, industrial waste, sewage (domestic or nondomestic), or any combination thereof, carried by water.

**WATER SUPPLY:** A system of pipes and other structures through which water is obtained and distributed for consumption from springs, wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, storage tanks, cisterns, and related appurtenances.

**OWNER:** The person or entity that holds legal and/or equitable title to a private property.

**PARKING LOT:** An off-street facility, including parking spaces, along with adequate provision for drives and aisles for maneuvering and giving access and for entrance and exit, all laid out in a way to be usable for the parking of more than six (6) automobiles.

**PARKING SPACE:** An off-street space available for the parking of one (1) motor vehicle and having an area of not less than one hundred sixty two (162) square feet nor less than nine (9) feet wide by eighteen (18) feet long, exclusive of passageways and driveways appurtenant thereto and giving access thereto and having direct access to a street or right-of-way.

**PENNINGTON COUNTY:** Any personnel, including, but not limited to: Pennington County Planning and Zoning Department personnel, the Pennington County Planning Commissioners and/or the Pennington County Board of Commissioners.

**PERSON:** Responsible party. An individual, trust, firm, estate, company, corporation, partnership, association, state, state or federal agency or entity, municipality, commission, or political subdivision of a state.

**PLANNING DIRECTOR:** Any person appointed by the Pennington County Board of Commissioners to supervise the Pennington County Planning & Zoning Department. The Planning Director and his/her designee charged with the administration and enforcement of this Ordinance.

**PLANNED UNIT DEVELOPMENT:** A development planned in accordance with the provisions of these Zoning Ordinances.

**PLATTED PRIVATE DRIVE:** A tract of land delineated on a subdivision plat approved by the governing board for use as a street or road owned for use as a private way.

**PRINCIPAL USE:** The specific primary purpose for which land or building is used. In any commercial or industrial district, more than one principal industrial or commercial use may be permitted on a single lot. In any zoning district, more than one principal use may be permitted on a single lot if one of the uses is operated by a government agency.

**PUBLIC RIGHT-OF-WAY:** A strip of land dedicated or required for use as a public way.

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

**RECREATION RESIDENCES:** Residences located on National Forest Land that occupy planned, approved tracts, or those groups established for recreation residence use.

**RECREATIONAL VEHICLE:** A vehicle:

1. Built on a single chassis;
2. Designed primarily as temporary living quarters for recreational, camping, travel or seasonal use, not to be used as a permanent dwelling; and,
3. That has a minimum of a food preparation area, storage area, bed and table.

**RESIDENTIAL DISTRICT:** Any lands designated on the official Zoning Map as being either the Low Density Residential District or the Suburban Residential District, pursuant to the provisions of Section 207 or 208 of these Zoning Ordinances.

**SANITARY SEWER:** A municipal, community or individual sewage disposal system of a type approved by the Health Department.

**SEASONAL CABIN/DWELLING:** A dwelling that does not meet the South Dakota Department of Environment and Natural Resources minimum absorption area for a residential individual on-site wastewater treatment system. The dwelling unit shall not be occupied for more than one hundred eighty (180) days in each year.

**SETBACK:** The required distance between every structure and any lot line on the lot on which it is located.

**SIDE LOT LINE:** Any lot line, which meets the end of a front lot line or any other lot line.

**SIGNS, BILLBOARDS, and other ADVERTISING STRUCTURES: (SECTION 312)**

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**ABANDONED SIGN/BILLBOARD:** A sign or sign structure that is blank, obliterated or displays obsolete advertising material for a period in excess of twelve continuous months. The twelve-month period for determining if a sign is abandoned commences upon notification of violation to the offender.

**ADVERTISING SIGN:** A sign which directs attention to a business, commodity, service or entertainment conducted, sold, or offered elsewhere than on the premises and only incidentally on the premises, if at all.

**BACK-TO-BACK SIGN:** An Off-Premise or On-Premise sign consisting of two sign facings oriented in the opposite direction with not more than one face per side.

**BUSINESS SIGN:** A sign, which directs attention to the business or profession conducted on the premises. A "For Sale," "For Rent," or "Information" sign shall be deemed a business sign.

**COMMUNITY SIGN:** A sign not exceeding thirty-two (32) square feet in area and approved by the County Board which directs attention to community events that are educational, cultural, or recreational in nature. In no event, however, shall such sign or part thereof contain a commercial advertising message.

**DIRECTIONAL SIGN:** A sign erected for the convenience of the public, such as directing traffic movement, parking or identifying restrooms, public telephones, walkways and other similar features or facilities and bearing no advertising in the message.

**DOUBLE-FACED SIGN:** An off-premise or on-premise sign with two adjacent faces oriented in the same direction and not more than 10-feet apart at the nearest point between the two faces.

**FACING:** That portion of a sign structure upon which advertising is affixed or painted and visible in one direction at one time.

**OFF-PREMISE SIGN:** A sign/billboard that advertises goods or services not available at the location of the billboard or advertising sign.

**ON-PREMISE SIGN:** A sign identifying an establishment's activities, products or services conducted or available on the property upon which it is located and signs advertising the sale or lease of the property upon which they are located.

**SIGNS/BILLBOARDS:** Any sign defined in this ordinance which displays or conveys any identification, description, illustration, or device illuminated or non-illuminated, which directs attention to a product, service, business activity, institution, business or solicitation, including any permanently installed or situated merchandise, or any emblem, painting, banner, pennant or placard designed to advertise, identify or convey information, with the exception of window displays.

**SIGN STRUCTURE:** The sign face and support members that are permanently affixed to the ground or attached to a structure.

**TEMPORARY SIGNS:** Signs and sign structures that are temporary in nature used in conjunction with a specific event, that are placed or erected in such a manner to be easily removed from the property and are not permanently affixed. ~~All political signs shall be considered temporary signs.~~ Temporary signs shall not exceed 32 square feet in size.

**SINGLE-FAMILY DWELLING:** A building designed to be occupied exclusively by one family.

**SITE OR STICK-BUILT HOME:** A dwelling unit constructed on-site with a single kitchen designed for occupancy by only one (1) family for cooking, living, and sleeping purposes.

**SPECIFIED ANATOMICAL AREAS:** (1) Less than completely and opaquely covered (a) human genitals, pubic region; and (b) female breast below a point immediately above the top of the areola. (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

**SPECIFIED SEXUAL ACTIVITIES:** (1) Human genitals in a state of sexual stimulation or arousal; (2) acts of human masturbation, oral copulation, sexual intercourse, or sodomy; (3) fondling or other erotic touching of another's human genitals, pubic region, buttock, anus or female breast.

**STREET:** A public or private thoroughfare, which affords the principal means of access to abutting property. May be used interchangeably with "road," "drive," or "highway."

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

**STRUCTURE:** Any material or combination of materials, completely or partially constructed, or erected in or upon the ground, including, but not by way of limitation, buildings; mobile homes; radio towers; sheds; signs; and storage bins, but excluding sidewalks and paving on streets, driveways, parking areas, fences, earthwork, wind-breaks, and nonbusiness signs related to farming or ranching operations. An object, including a mobile object, constructed or installed by man, including but without limitation; buildings; towers; cranes; smokestacks; earth formation; and overhead transmission lines.

**TELECOMMUNICATIONS FACILITY DEFINITIONS: (SECTION 316)**

**ACCESSORY EQUIPMENT:** Any equipment servicing or being used in conjunction with a Telecommunication Facility or Support Structure. This equipment includes, but is not limited to, utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters, guy wires or other structures.

**ADMINISTRATOR:** The Planning Director or individual designated by the Planning Commission to conduct the Administrative Review referred to in this Ordinance.

**ADMINISTRATIVE APPROVAL:** Zoning approval that the Administrator is authorized to grant after Administrative Review.

**ADMINISTRATIVE REVIEW:** The procedures established in Section 316 of this Ordinance.

**ANTENNA:** Any structure or device used to collect or radiate electromagnetic waves for the provision of cellular, paging, personal communications services (PCS) and microwave communications. Such structures and devices include, but are not limited to, directional antennas, such as panels, microwave dishes and satellite dishes, and omnidirectional and whip antennas.

**CAMOUFLAGED FACILITY:** A Telecommunications Facility that resembles a tree or naturally occurring environmental feature, or, if the facility resembles or is a flag pole, antennas are snug or stealth mounted and/or a flag is attached to the pole.

**“CARRIER ON WHEELS” OR “CELL ON WHEELS” (COW):** A portable self-contained cell site that can be moved to a location and set up to provide personal wireless services on a temporary or emergency basis. A COW is normally vehicle-mounted and contains a telescoping boom as the Antenna Support Structure.

**CO-LOCATION:** The use of a Telecommunications Facility by more than one wireless telecommunications provider. Co-location also means locating wireless telecommunications facilities on an existing structure (for example: buildings, water tanks, towers, utility poles, etc.) without the need to construct a new Support Structure.

**FEDERAL AVIATION ADMINISTRATION (FAA):** A Federal agency that is responsible for the safety of civilian aviation.

**FEDERAL COMMUNICATIONS COMMISSION (FCC):** A Federal agency that regulates interstate and international communications by radio, television, wire, cable, and satellite.

**LATTICE TOWER:** A Support Structure constructed of vertical metal struts and cross-braces forming a triangular or square structure which often tapers from the foundation to the top.

**MAJOR MODIFICATIONS:** Improvements to existing Wireless Telecommunication Facilities or Support Structures that result in a “substantial” change to the facility or structure. Major Modifications include any one of the following: (1.) Extending the height of the Support Structure by more than 10 percent of its current height; and, (2.) The Support Structure does not meet the definition of “Replacement” as defined in this Ordinance. Co-location of new Telecommunications Facilities to an existing Support Structure without Replacement or extension of the structure shall be considered a Minor Modification. Major Modifications shall require approval of a Telecommunications Facility Permit.

**MINOR MODIFICATIONS:** Improvements to existing Wireless Telecommunications Facilities and Support Structures that result in some material change to the facility or Support Structure but of a level, quality, or intensity that is less than a “substantial” change. Such Minor Modifications include, but are not limited to, extending the height of the Support Structure by less than 10 percent of its current height and the expansion of the compound area for additional Accessory Equipment.

**MONOPOLE:** A Support Structure constructed of a single, freestanding pole-type structure supporting one or more antennas.

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**ORDINARY MAINTENANCE:** Ensuring that Telecommunications Facilities and Support Structures are kept in good operating condition. Ordinary Maintenance includes inspections, testing, and modifications that maintain functional capacity and aesthetic and structural integrity. For example, the strengthening of a Support Structure’s foundation or of the Support Structure itself. Ordinary Maintenance includes replacing Antennas and Accessory Equipment on a like-for-like basis within an existing Telecommunications Facility and relocating the Antennas of approved Telecommunications Facilities to different height levels on an existing Tower upon which they are currently located. Ordinary Maintenance does not include Minor and Major Modifications.

**REPLACEMENT:** Constructing a new Support Structure of equal height and proportions to a preexisting Support Structure in order to accommodate co-location and removing the preexisting Support Structure.

**STEALTH TELECOMMUNICATIONS FACILITY:** Any Telecommunications Facility that is designed so that the purpose of the facility is not readily apparent to a casual observer.

**SUPPORT STRUCTURE(S):** A structure primarily designed to support Telecommunications Facilities including, but not limited to, Monopoles, Towers and other freestanding self-supporting structures.

**TELECOMMUNICATIONS FACILITY(ies):** Any unmanned facility established for the purpose of providing wireless transmission of voice, data, images or other information including, but not limited to, cellular telephone service, personal communications service (PCS), and paging service. A Telecommunications Facility can consist of one or more Antennas and Accessory Equipment or one base station.

**TELECOMMUNICATIONS FACILITY PERMIT:** A Telecommunications Facility Permit is required for all proposed facilities that serve as telecommunication sites for the purpose of providing wireless communications.

**TOWER:** A lattice-type, guyed or freestanding structure that supports one or more Antennas.

**TOWER HEIGHT:** The vertical distance measured from the ground to the upper most point of the Telecommunications Tower and/or Antennae and all attachments.

**TEMPORARY CAMPGROUND:** An area for outdoor overnight accommodations and occupied by twenty (20) or more people.

**TOWNHOUSE:** Multiple-family or attached single-family dwellings in which the separate dwelling units and the ground they occupy are individually owned while the common areas are jointly owned.

**TRAVEL TRAILER:** A portable or mobile home living unit designed for human occupancy away from the principal place, or residence of the occupants. (See Recreational Vehicle)

**VACATION HOME RENTAL (VHR):** Any dwelling unit that is rented for pay or other consideration, leased, or furnished in its entirety to the public on a daily or weekly basis for more than 14 days in a calendar year and is not occupied by an owner or manager during the time of rental. This term does not include a bed and breakfast establishment as defined in SDCL 34-18-9.1(1). [ref. SDCL 34-18-1(21)]

**WATERS OF THE STATE:** All waters within the jurisdiction of this state, including streams, lakes, ponds, impounding reservoirs, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, situated wholly or partly within or bordering on the state, but not waste treatment systems, including

treatment ponds or lagoons designed to meet the requirements of the CWA other than cooling ponds as defined in 40 C.F.R. § 423.11(m) (July 1, 1991).

#### WIND ENERGY SYSTEMS DEFINITIONS: (SECTION 317)

**AIRSPACE IMAGINARY SURFACES:** A structure of imaginary surfaces that exist primarily to prevent existing or proposed manmade objects, objects of natural growth or terrain from extending upward into navigable airspace. These imaginary surfaces either slope out and up from all sides and ends of runways or are a horizontal plane or a sloping plain above airports. Imaginary surfaces are shown on Exhibit A.

**DECIBEL (dB):** A unit for expressing the relative intensity of sounds on a scale from zero to the average least perceptible sound to about 130 for the average pain level.

**dB(A):** A frequency weighting that relates to the response of the human ear to sound.

**CLASS DELTA AIRSPACE:** Ellsworth Air Force Base and Rapid City Class D Airspaces overlap. Ellsworth Air Force Base and Rapid City Air Traffic Control facilities mutually agree that the ridge of hills southeast of Ellsworth Air Force Base constitute the geographical boundary between the Class D Airspaces (Exhibit A). Ellsworth Air Force Base's Class D Airspace extends from the surface up to and including 5,800 feet mean sea level (MSL) and a 5.9 nautical mile radius of the airport center. Rapid City's Class D airspace extends from the surface up to and including 5,700 feet mean sea level (MSL) and a 4.3 nautical mile radius from the airport center.

**COLLECTOR LINE:** A single or group of transmission lines that links one generator or a group of generators to the bulk power grid.

**FEEDER LINE:** A primary or main distribution power line that distributes or "feeds" power from a substation to the surrounding area. Feeder lines typically have many smaller "taps" or "pull-off" lines that lead to transformers and service lines serving homes and businesses.

**LARGE WIND ENERGY SYSTEM OR LWES:** All WES facilities excluding Small Wind Energy Systems.

**METEOROLOGICAL TOWER:** A tower which is erected primarily to measure wind speed and direction plus other data relevant to siting of a WES. Other meteorological towers, such as those used by airports, municipalities, weather services or research facilities, are not affected by this definition or this section of the Ordinance.

**NOAA:** National Oceanic and Atmospheric Administration.

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**OBSTRUCTION EVALUATION / AIRPORT AIRSPACE ANALYSIS (OE/AAA):** Required for all systems 200 feet or above in total height. The process for aeronautical studies of obstructions to air navigation or navigational facilities to determine the effect on the safe and efficient use of navigable airspace, air navigation facilities or equipment; and the process to petition the Federal Aviation Administration (FAA) for discretionary review of determinations, revisions, and extensions of determinations.

**PARKS:** National parks, national monuments, national grasslands, wilderness areas and state parks.

**RECREATION AREAS:** Formally designated recreation areas, picnic areas, hiking trails, public beaches and lakeshores.

**SMALL WIND ENERGY SYSTEM OR SWES:** A WES facility with a single System Height of less than one hundred (100) feet used primarily for on-site consumption of power.

**SUBSTATIONS:** Any electrical facility designed to convert electricity produced by wind turbines to a voltage for interconnection with transmission lines.

**SYSTEM HEIGHT:** The height of the total system measured from grade to the tip of a vertically extended blade.

**TELECOMMUNICATIONS:** Any communication transmission that effects two-way communication within this state.

**TURBINE:** The parts of the WES, including the blades, generator, and tail.

**UTILITY:** Any person or entity engaged in the generation, transmission or distribution of electric energy in this state including, but not limited to: a private investor owned utility, a cooperatively owned utility, a consumer's power district and a public or municipal utility.

**WIND ENERGY SYSTEM OR WES:** A system that converts wind movement into electricity. All of the following are encompassed in this definition of system:

- a. Tower or multiple towers, including foundations;
- b. Generator(s);
- c. Blades;
- d. Power collection systems, including pad-mount transformers;
- e. Access roads, meteorological towers, on-site electric substations, control building, and other ancillary equipment and facilities; and,
- f. Electric interconnection systems or portion thereof dedicated to the WES.

**WIND FARM:** A commercial facility whose main purpose is to generate and sell electricity, consisting of two (2) or more Large Wind Energy Systems and other structures, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities.

**WIND GENERATOR:** A mechanical device designed and operated so as to generate electricity.

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



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

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

**YARD, SIDE:** An open unoccupied space on the same lot with the building and the sideline of the lot and extending from the front yard to the rear yard. Any lot line, not a rear line or a front line, is a sideline.

**ZERO LOT LINE STRUCTURE:** A multi-family dwelling unit located on a single lot line. The unit is constructed as one unit but is intended to be sold as separate home sites and which otherwise meets all requirements of the zone in which it is located.

**ZONING DISTRICT:** See District.