South Dakota Planning and Zoning Manual

Cooperative Extension South Dakota State University

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South Dakota

Planning and Zoning

Manual

Cooperative Extension Service
U.S. Department of Agriculture
South Dakota State University, Brookings
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PREFACE

Land Use Planning and Zoning is a technical process which requires knowledge and use of the principles of planning. The process must also be done within an existing framework of enabling statutes passed by the South Dakota Legislature over the past half century.

Planning commission members are not technical planners. They are not likely to have had legal training. Yet, if they are to responsibly carry out their duties in accordance with state law, they must acquire knowledge of both the planning process and state law as it applies to land use planning and zoning.

This publication is designed to assist planning commission members in that task and is dedicated to them, both city and county, who give their time and talents as responsible citizens.

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CHAPTER I

THE CITY PLANNING COMMISSION

Duties and Responsibilities

Authority for establishment of a city planning commission is contained in two sections of the South Dakota Compiled Laws of 1967, hereafter shown as SDCL.

SDCL 11-4-11 states, "In order to avail itself of the powers conferred by this chapter, the governing body shall appoint a commission to be known as the planning and zoning commission to recommend the boundaries of the zoning districts and appropriate regulations to be enforced therein. The planning and zoning commission provided herein shall be the same planning and zoning commission provided under the provisions of Chapter 11-6."

SDCL 11-6-2 states, "For the purpose of promoting the health, safety and general welfare of the municipality, each municipality of the state shall provide by ordinance for a planning and zoning commission, including the appropriation of money to a fund for the expenditures of such commission. Municipalities shall, as soon as possible, make, adopt, amend, extend, add to or carry out a general municipal plan of development, such plan to be referred to as the comprehensive plan."

It should be noted that the language of the law (passed in 1975) makes the appointment of a city planning commission mandatory. Its chief responsibility is to prepare and maintain a comprehensive plan and the related zoning regulations. Later sections (SDCL 11-6-10, 11, 12) point out that the comprehensive plan covers not only the municipality but may include the 3-mile area surrounding the city under certain circumstances and conditions.

Both chapters of the state's municipal planning and zoning law cover appointment of the municipal planning commission. One chapter (SDCL 11-6-4) provides for appointment of the planning commission by the mayor with approval of the governing body. Chapter 11-4-11 provides for the appointment by the governing body.

Commission Composition

The planning commission is composed of at least five members with no maximum limit imposed by South Dakota law. Members are appointed to a 5-year term, except when the commission is first established. At that time at least one-half the appointments are made for 3 years to provide
for an overlapping of tenures. Administrative officers of the city may be appointed as ex-officio members. If a vacancy occurs on the commission the unexpired term may be filled in the same manner as for appointment. Members may be removed from office by the mayor for cause with confirmation of the governing body upon presentation of the cause in writing and after a public hearing (SDCL 11-6-4).

Meetings

The city planning commission must meet at least monthly. Within budget limitations, it is authorized to employ clerical and technical assistance, enter into joint planning contracts with the county planning commission or with the planning and development district. As another alternative, it may delegate the entire task of preparing the comprehensive plan and controls to the county planning commission (SDCL 11-6-3).

Salaries

Planning commission members may or may not be salaried. In some instances, the chairman, elected by the members from their own membership for an annual term, is salaried while the balance of the board receives expenses and per diem allowances. In some larger municipalities the chairman functions as the office manager on a full time basis. State law does not specifically authorize the expenditure of funds for these purposes but does state that the expenditure of the planning commission must be within the amount appropriated by the local legislative body "...which shall provide the funds, equipment, and accommodations necessary for the commissions work." (SDCL 11-6-9.)

Responsibilities

It is the responsibility of the city planning commission to prepare the city comprehensive plan. In the words of the South Dakota Compiled Laws:

"In the preparation of the comprehensive plan the planning commission shall make careful and comprehensive surveys and studies of the existing conditions and probable future growth of the municipality and its environs. The plan shall be made with the purpose of guiding and accomplishing a coordinated, adjusted, and harmonious development of the municipality, which will, in accordance with existing and future needs, best promote the health, safety, morals, order, convenience, prosperity or the general welfare, as well as efficiency and economy in the process of development." (SDCL 11-6-15.)

In order to carry out the mandate of the South Dakota Legislature the majority of the planning commissions in South Dakota employ the assistance of professional planners. It is not absolutely essential that professional planners be hired; interested local people could do the job, but very few try. Comprehensive planning is a time consuming task. Few planning commission members have the time to make the required studies and gather date necessary for a well written
STEPS IN ESTABLISHING MUNICIPAL PLANNING AND ZONING

1. Mayor or governing body appoints Planning Commission of 5 or more members. They must meet monthly.

2. City Planning Commission prepares comprehensive plan and adjuncts. (City council may adopt temporary zoning ordinance.)

3. Planning commission shall hold at least one public hearing and publish a notice 15 days before hearing. Copy of plan submitted to State Planning Bureau when submitted to governing body.

4. Governing body holds hearing following notice as above. May refuse or adopt, with or without amendment.

5. If adopted, a summary of plan and ordinances printed in newspaper, complete copies filed with the auditor or clerk and the State Planning Bureau.

6. Citizens may invoke referendum on entire ordinance or 40% of owners in any proposed district may invoke referendum on terms of ordinance as it applies to that district.

7. If voters reject in referendum the plan and adjuncts returned to planning commission for revision. Revised plan adopted by same procedure as original, including notice of hearing, etc.

8. Subsequent changes in plan and ordinance made in the same manner as the adoption of original ordinance.
comprehensive plan. Furthermore, plans written without assistance of professional planners are not eligible for grants from some federal agencies.

Commission and Professional Planner's Role

Just because the task is an exacting one for people not trained in planning procedure is no reason for delegating the entire task to the professional planner. The planning commission does have a very important role and responsibility. This responsibility is the one of formulating the overall goals and establishing the policies for the future growth and development of the city. The comprehensive policies plan is a wide-ranging summary of city goals and commitments to future development and is usually stated in broad terms.

Policy statements should be formulated which guide the professional planner in laying out specific plans for location of parks, shopping centers, industrial parks, parking, and in proposing restrictions on lot size and height of structure in the various use zones. Writing the comprehensive plan is discussed in more detail in a later chapter "The Comprehensive Planning Process."

Citizen Involvement

Ideally every citizen should be involved in the formulation of policy statements. While it is nearly impossible to involve every citizen and perhaps even more difficult to reach a consensus on every policy question, the planning commission should solicit the opinions of as many groups and private citizens as possible.

One method which has been used successfully is the formulation of a citizens' advisory board. Membership of this ad-hoc board chosen by the governing body might consist of representatives of service clubs; religious, business, professional and consumer groups; and interested individual citizens. A broad-based advisory board is useful for two reasons: it assures citizen involvement in the plan and it helps to keep the general public informed as the plan develops.

The comprehensive plan is only a plan and, if not implemented, is of very little value. It must have both the force of law and the pressure of public opinion behind it to be implemented. The zoning ordinance, subdivision regulations and health and safety codes are the instruments which provide the legal framework for implementation. If the public is involved in writing the plan, enforcement will be simplified. It is for these reasons the planning commission and the professional planner should work together and solicit the opinions of others.

The planning commission should periodically report to the city governing body and consult with it on major policy decisions. The governing body is the only group with the authority to adopt the plan and to pass the zoning ordinances necessary to implement the plan. Eventually this body will have to defend both the plan and the ordinances before their constituents in an open hearing.
Time Frame for Planning

Comprehensive plans are usually written with a view toward the future, approximately 20 years ahead. Zoning takes a shorter range view, usually 5 years. Nobody knows exactly what the future may bring. Changing circumstances will require periodic modifications in both the comprehensive plan and the zoning ordinance. The task of keeping both the plan and the ordinance current is the responsibility of the planning commission. Changes in the zoning ordinance must be made by official action of the governing board in the same manner as in the enactment of the original ordinance. In its zoning commission role, the planning commission will be in an ideal position to recognize the need for changes in both the comprehensive plan and in the zoning ordinance.

Just as the planning commission must be prepared to make needed changes in the comprehensive plan and zoning ordinance, it must also be prepared to defend the plan against undesirable changes for which requests will be made. The most common request is usually for spot or strip rezoning. For a variety of reasons land owners may request a change in their zoning classification, changes which might have an undesirable impact upon nearby property.

Requests for Exceptions

Hearing requests for variances and special exceptions is the responsibility of the board of adjustment. Members of this five-member board are appointed to a 3-year term, as an alternative, the city governing body may authorize the planning commission to serve in this capacity (SDCL 11-6-25). The board of adjustment does not hold a prescribed number of meetings, but meets on call when there are requests for a variance or special exception (SDCL 11-4-15).

No formal linkage between the planning commission and the board of adjustment is imposed by state law unless they are the same body. The only guidance is given to the board of adjustment for its deliberations are state law (SDCL 11-6-25) and the policy statements contained in the comprehensive plan and in the zoning ordinance. This is an important reason for well developed policy statements. The administration of the zoning ordinance is discussed in more detail in Chapter V, "Administering the Zoning Ordinance or Resolution."

CHAPTER II

THE COUNTY PLANNING COMMISSION

Duties and Responsibilities

Members of the county planning commission are appointed by the county commissioners for a 5-year term, except when first appointed, at which time the lengths of terms will be varied so that no more than one third of the terms will expire in any one year. Membership of the county planning commission must be at least three persons, one of which
shall be a county commissioner, with no maximum limit. County administrative officers may be appointed as ex-officio members. The law provides that planning commission membership shall always be an uneven number. SDCL 11-2-3 was amended in 1974 to provide for the removal, for cause, of any appointed member prior to the expiration of his term of a majority vote of the county commissioners.

County planning commission members usually are not salaried. They usually receive compensation for their expenses and a per diem allowance although the statutes do not specifically authorize such expenditures. Meetings must be held at least once every 3 months (SDCL 11-2-3.1).

Combined Commissions

The county planning commission and county zoning commission are one and the same. The preparation of both the county comprehensive plan and the zoning resolution is the responsibility of this body. They are authorized to hire consultants, employ their own staff, or use the services of their planning and development district. They may jointly plan with municipalities and adjoining counties. South Dakota law also provides that county planning commissions must include unincorporated municipalities in the county plan and incorporated municipalities if requested by resolution of the governing body of such municipality (SDCL 11-2-11). In the case of the incorporated municipality the governing body must then adopt the comprehensive plan and controls devised for the municipality by the county in its own ordinances (SDCL 11-1-31).

Chapter 11, Section 2-11 of the South Dakota statutes states: "The county planning commission shall prepare, or cause to be prepared, not later than July 1, 1976, a comprehensive plan for the county.... Zoning ordinances, subdivision ordinances, the official zoning map, and other official controls as deemed necessary shall be included as adjuncts.... It shall be the duty of the commission to also develop official controls for the implementation of the comprehensive plan."

Technical Assistance

Most South Dakota county planning commissions will depend upon either a consultant or district planning and development personnel for technical planning assistance. The temptation is to delegate the entire task to the professional planners. This weakens the planning process and is a serious mistake.

The responsibilities of the planning commission and professional technical planners are different, although complementary. The professional planner can advise and provide technical information upon which to base decisions. But it is the responsibility of the planning commission to formulate the overall goals of the plan and establish policy guidelines. The goals and policy guidelines are incorporated in the county comprehensive plan and are recommendations to be followed by the professional as he or she approaches the task of writing the physical plan, preparing maps and writing a proposed zoning resolution.
Board of County Commissioners appoint Planning Commission

Planning Commission prepares comprehensive plan, Zoning ordinance, maps, and sub-division regulations by July 1, 1976

Submits plan to County Commissioners and copies to State Planning Bureau

Commissioners publish notice of hearing once a week for two successive weeks

Based on results of hearing the County Commissioners adopt plan and official controls by majority vote

Copy of action filed with County Auditor and State Planning Bureau. Summary of the plan published once in official newspaper

Certified copy of plan and ordinances and other official controls filed with the Register of Deeds and State Planning Bureau

Plan and Ordinance effective 20 days after publication. (Referendum procedure on following page.)

Subsequent changes in plan and adjuncts made in same manner as in the adoption of original plan and adjuncts
PROCEDURE FOR REFERENDUM ON COUNTY COMPREHENSIVE PLAN AND ADJUNCTS* THERETO

10% of electors may petition to vote on the plan or adjuncts at next election

County Auditor prepares ballots for voting in next primary or general election

If voters reject proposed plan the County Commissioners return plan (or adjuncts) to planning Commission for revision

Plan (or adjuncts) returned to County Commissioners who adopt by same procedure as the original plan

*Zoning Ordinance, Official Map Sub-division Regulations, and other official land use controls
The goal and policy statements for a county experiencing rapid urban growth will be vastly different from a primarily agricultural county with few municipalities. Each county has unique physical problems. Furthermore, the attitudes of the people toward development might vary from county to county. A professionally drawn plan might be technically correct in every respect, but be of very little value to the people of the county if the people have no interest in implementing the plan as prepared.

Community Participation

Ideally every citizen of the county should be involved in formulating the goals and policies for the county. From the practical standpoint, this is nearly impossible. The county planning commission, as a viable alternative, should solicit the opinions and recommendations of community leaders and active organizations.

One method used successfully to assure citizen involvement in policy decisions is the formation of an advisory board, appointed by the board of county commissions, to the planning commission. Membership might include local governmental officials (township, county, small municipalities and school board), business leaders such as area chamber of commerce members, representatives of farm organizations, land developers and realtors, environmental organizations and sportsmen's groups, women's organizations and youth, Resource Conservation and Development (RC&D) and Conservancy Sub District board members.

South Dakota law charges the county commissioners with the responsibility for the adoption or rejection of the completed plans and official controls. Planning commission members should keep the county commissioners informed of the progress of the planning efforts and solicit their recommendations on all policy matters.

In every county there are numerous offices and agencies which have an interest in the county comprehensive plan and a responsibility to provide their expertise in the finalization of the product. USDA agencies can provide educational assistance, soil, water and land use data, and other information and services. State and county offices, planning districts, bureaus and agencies can provide income, demographic, employment, transportation, educational and property evaluation data. Such information is essential for a properly written plan.

A Public Hearing Must Be Held

When the county planning commission has completed the task of preparing the comprehensive plan and its adjuncts, the document is submitted to the board of county commissioners. The commissioners, under a procedure set forth in the statutes, then must hold a public hearing and either adopt, or return the plan to the planning commission for amendment. The county commissioners may adopt a revised plan without holding another public meeting.

Ten percent of the electors as determined by the total number of votes cast for governor in the county at the last gubernatorial election may petition to have the question of adoption or rejection of the county comprehensive plan placed upon the ballot at the next primary or general
election, whichever comes first following the filing of the petition (SDCL 11-2-22). If the voters reject the proposed comprehensive plan, the county commissioners may return it to the county planning commission for revision, after which the county commissioners may adopt the plan by the procedure used with the initial plan (SDCL 11-2-22.1).

Zoning controls, the official map, sub-division regulations and other official controls are defined in present law as adjuncts to the comprehensive plan. Prior to July 1, 1975 they were considered an integral part of the comprehensive plan and had to be adopted or rejected as a unit. As a result of 1975 legislative changes the comprehensive plan, zoning ordinances, map and sub-division regulations may or may not be acted upon separately. Official notice, hearing, formal adoption and final publication requirements must be compiled with whether or not the plan and adjuncts are acted upon as a unit or separately.

If the county board desires to pass zoning controls only, it may do so but only if the planning commission is in the process of writing the comprehensive plan. Such a zoning ordinance is temporary. The temporary ordinance is valid for one year with a renewal provision for one additional year (SDCL 11-2-10).

After the county comprehensive plan is adopted by the board of county commissioners, the planning commission functions in a dual role. As previously stated, the county planning commission is also the county zoning commission. In this dual role, it is the continuing responsibility of the commission to recommend needed changes, from time to time, in both the comprehensive plan and the zoning resolution or ordinance.

Time Frame

The county comprehensive plan is usually written with a long range view, projecting future growth for about a 20-year period. The zoning ordinance is designed to control changes over a shorter time span but within the guidelines set forth in the plan.

The plan and controls should be thought of as an ever-changing instrument. If circumstances change from those anticipated, the plan and adjuncts should be revised accordingly. Recommending needed changes to the board of county commissioners is the responsibility of the county planning commission. The commission, in its zoning commission role, should be the first to recognize the need for changes. It should also be prepared to resist requests for changes which are not in the best interest of other landowners or of the community.

The county planning commission may also be appointed as the board of adjustment and, as such, grant variances and special exceptions to the zoning ordinance. A request for a variance or special exception may be granted only upon a three-fourths affirmative vote of the full membership. The board of adjustment is discussed in more detail in the chapter, "Administering The Zoning Ordinance or Resolution."

In all decisions, the planning commission must put the community interest first. Planning and zoning rests upon the principle that all landowners must give up some freedom in the use of their land in return
for the protection that the law gives them against uses of adjacent land which might be objectionable to them. If decisions of the planning commission benefit a particular landowner or group of landowners to the detriment of others, the decisions are contrary to the principle of zoning and are subject to challenge in the courts.

CHAPTER III

THE COMPREHENSIVE PLANNING PROCESS

Governments, individuals, families, businesses and industries engage in planning for three basic reasons: to meet expected change, to produce desirable change, and to prevent or avoid undesirable change. Planning then, is a means of coping with change, whether it be for public or private purposes.

Those who have engaged in wise private planning are usually admired for their foresight and success but public planning has not always shared that admiration. It has only been in recent years that local governments have engaged in planning in order to cope with the problems of uncontrolled or haphazard growth and to prevent further intensification of such problems in the future.

Comprehensive planning enabling legislation has been available for South Dakota counties and municipalities for many years but only recently has county and municipal planning become mandatory.

South Dakota planning and zoning law for counties (SDCL 11-2-11) states:

"The county planning commission shall prepare, or cause to be prepared, not later than July 1, 1976, a comprehensive plan for the county including those municipalities within the county which are either unincorporated or which have requested by resolution of the governing board of such municipality to be included. Zoning ordinances, subdivision ordinances, the official zoning map, and other official controls as deemed necessary, shall be included as adjuncts to and in accordance with the comprehensive plan. It shall be the duty of the commission to also develop official controls for the implementation of the comprehensive plan."

South Dakota planning and zoning law for municipalities (SDCL 11-6-2) states:

"For the purpose of promoting the health, safety and general welfare of the municipality, each municipality of the state shall provide by ordinance for a planning and zoning commission, including the appropriation of money to a fund for the expenditures of such commission. Municipalities shall, as soon as possible, make, adopt, amend, extend, add to or carry out a general municipal plan of development, such plan to be referred to as the comprehensive plan."
Comprehensive Plan is Blueprint for the Future

While the comprehensive plan is the basis for the formulation of the zoning ordinances and subdivision regulations it has a much larger purpose. South Dakota law (11-2-12) states, "The comprehensive plan shall be for the purpose of protecting and guiding the physical, social, economic and environmental development of the county; to protect the tax base; to encourage a distribution of population or mode of land utilization that will facilitate the economical and adequate provisions of transportation, roads, water supply, drainage, sanitation, education, recreation, or other public requirements; to lessen governmental expenditure; and to conserve and develop natural resources."

Zoning ordinances and subdivision regulations are just two of the means used to implement the comprehensive plan. It is further implemented by the capital improvement programs of the city or county and other public and private bodies and individuals such as the school district, library board, utility companies and real estate developers. The comprehensive plan is a guide for the day-to-day decisions of public institutions and private citizens. Other legal means which might be used are housing and building codes and health and safety regulations.

The comprehensive plan might also uncover needs not previously recognized such as for more jobs, housing or special educational facilities.

If the comprehensive plan is to be an effective blueprint for future development in the county or municipality it is imperative that the planning commission involve in the planning process the public and private groups and individuals who will be affected by the plan when it is implemented.

The comprehensive plan is long range in scope and general in concept. In contrast, the zoning controls, subdivision regulations and other recommendations are written in specific terms and detail. The comprehensive plan is usually designed to guide development over a 20-year period. The zoning and subdivision regulations along with the recommendations are designed to regulate and guide growth in the short range, usually 5 years, and will require more frequent revision.

No plan is a static document. Unforeseen changes will occur as well as those changes which are planned. Revision from time to time will be necessary, particularly to account for unforeseen changes over which the municipality or county have little or not control. Planning then, is a continuing and evolving process.

There is another very important and practical reason for keeping the comprehensive plan up to date. The Oregon Supreme Court in the recent case of Jean Baker vs the City of Milwaukee ruled that comprehensive plans override local zoning ordinances. In this particular case the housing densities established in the comprehensive plan were held to be superior to the densities allowed in the zoning ordinance. There is no assurance that the South Dakota courts would make a similar ruling, however, the possibility does exist. Therefore it is a good practice to keep the comprehensive plan and zoning ordinance compatible.
STEPS IN THE COMPREHENSIVE PLANNING PROCESS

1. Inventory and Analysis
2. Implementation
3. Setting Goals, Objectives & Policies
4. Plan Formulation
Four Steps in the Planning Process

The comprehensive planning process is a four-step procedure: (1) inventory and analysis; (2) goals, objectives and policies; (3) plan formulation; and (4) implementation. The steps are arranged in a problem solving sequence in which data are collected and arranged so that decisions will be reached based upon the best available facts.

The analysis section of the inventory and analysis step includes projections and forecasts of the changes which might be expected to occur during the next 20-year period.

The goals and objectives section represents the collective desires of the people for the kind of community in which they want to live, in light of what has been found to be feasible in the previous step. Policy statements explain how the goals will be accomplished.

Plan formulation is the study of alternative courses of action. In this step decisions are made for future land uses of the land. Decisions affecting the social and economic well being of the community are made as well. This particular step is the one the general public usually associates with planning because during this step maps are made portraying the various uses of land and showing the land set aside for future growth.

The final step is implementation. Zoning is the tool usually associated with the implementation stage, and it is this stage in which the zoning maps are drawn and the zoning ordinance is written. Other tools are considered, too, such as capital improvements, subdivision regulations, housing and building codes, and health and safety standards. Each of the steps will be discussed in greater detail below.

Inventory and Analysis

The first stage in the planning process is inventory and analysis. In this stage facts are collected on a variety of conditions from the past to the present.

Changes which have occurred in past years are the best indications of the continuing changes which might be expected to occur in the future. This does not mean that these trends or predictions of the future will occur or are inexorable. The past and even the present cannot be changed, but man can affect the changes which might be expected in the future.

The planner determines population and economic trends and make projections for the future. Not to be overlooked is the prior social situation, such as response to bond issues and other past actions. Prior development efforts will affect future response.

Information on the physical characteristics such as depth to bedrock, geology, soils and underground water supplies should be collected. The planner then maps each parcel of land in the area, indicating the physical characteristics and present land use. The planner also determines the number, location, and characteristics of existing public services and facilities including schools, fire stations, parks, open
spaces, water and sewer, telephone and other utilities. An inventory also includes an analysis of existing financial resources.

The following is an outline or check list which might be used in this step of the planning process.

A. Inventory
   1. General information
      a. population, arranged by sex and age grouping
      b. housing units, number and condition
      c. economic data such as employment and income by sectors such as industry, commerce, government, agriculture
      d. climatological data
      e. institutions such as schools, churches, libraries, local governments
      f. tax structures, bonded indebtedness, capitol outlays
   2. Inventory of present land uses
      a. accumulation of existing plots, maps and pertinent data
      b. visual survey, aerial and ground level photos
   3. Development of base maps of present land uses
      a. agricultural
      b. forest
      c. industrial
      d. commercial
      e. residential
      f. recreation, open space, wetlands and other unique natural areas and sites of historical and archeological significance
      g. surface and underground waters, quality and quantity
      h. transportation network, highways, streets, alleys, railroads, airports
      i. utilities network, sewage and solid waste disposal
      j. geology and soils
      k. topography
      l. location of commercial resources; sand and gravel, minerals, etc.

B. Analysis
   1. Projections and Forecasts
      a. population—sex and age groupings
      b. economy
         1) industry
         2) commerce
         3) government
      c. water supply
         1) surface
         2) underground
   2. Comparison of present situation with standards
      a. housing
      b. transportation
      c. utilities
      d. recreation
      e. facilities
         1) medical
         2) dental
         3) educational
         4) commercial

15
f. water supply

g. sewage and solid waste disposal

The data are then arranged for use by the planning commission and the public for the purpose of formulating the goals, objectives and policies for the community.

Goals Objectives and Policies

The second stage of the planning process involves identifying goals, objectives and policies. Some planning experts believe this step should be the first step in the planning process for several reasons. Early establishment of goals provides a guide for the technical planners as they go about the task of collecting data for the physical plan. If it is the first step, more time is allowed for the involvement of local leaders, local governmental officials and agencies and interested citizens. Usually steps one and two are carried on simultaneously. The technical planner assembles the data while the planning commission formulates the goals and objectives. The goals and objectives step is shown here as step two for one reason: the data collected and analyzed in the previous step might uncover needs and opportunities which might otherwise be overlooked.

It is important to note that this step is the primary responsibility of the planning commission and not the responsibility of the technical planner. Much of the failure of past planning efforts can be attributed to the delegation of the goals, objectives and policies part of the plan to the professional planner. Without citizen input, the professional planner assumes or prescribes community objectives which may or may not materialize in anything other than written form. Citizen involvement at this stage also stimulates interest and support for the plan when finally adopted.

This particular section when completed may appear to be simple because the final result is a series of statements, the actual writing of which could be completed in a very short time. Appearances are deceiving. The task is difficult and sometimes controversial because the final product should be a composite of local opinion about what the citizens want their area to be in the future. Since the objective of the whole planning process is to provide a better environment for the people, the citizens of the planning area must be given the opportunity to take part in the planning.

Very often, if citizens have not been given the opportunity to express their opinions during the planning stages, the plan and its adjuncts become controversial when finally presented to the public for adoption. It is far better to face possible controversy before the plan is written, when compromises can be worked out, than after the task has been completed.

The following suggestions are designed to encourage citizen participation in the planning process.

1. Publish planning newsletters for public distribution concerning the planning program and progress.
2. Use the daily and weekly newspapers, radio and television stations to report planning matters to the public and invite the public to attend planning meetings.

3. Keep the discussion meetings open to the public and involve the local community leaders and public officials.

4. Planning commission members and others involved should request appearances before various community groups, clubs, etc., to discuss problems and solicit opinions.

5. Mail questionnaires to a sample of citizens to obtain opinions on specific questions and proposals.

6. Encourage people to visit specific problem areas or areas which might become problem areas.

The planning commission and the public in their deliberations should consider the goals and objectives of the larger region of which the city or county is a part. For example, if tourism is a significant part of the region's economy the protection and enhancement of the local scenic resources should be one goal of the local plan. If a flood plain crosses the area the plans for its use should be compatible with the plans of adjacent cities and counties.

Goals, objectives and policies should be stated in specific terms pertaining to matters such as land use, transportation, public facilities and services, and housing. While the statements should be as specific as possible, this wide ranging summary of community commitments is less detailed than the physical development plan which is the next step in the process.

The following policies are characteristic policy statements that might be adopted by a county in its comprehensive policies plan. By evaluating the impact of specific zoning decisions in context with these suggested policies, zoning can, in the long run, become more meaningful and effective. The following policy statements are only general examples.

**Growth Policy**

New growth and development should adjoin presently developed areas. Scattered subdivisions and spot and strip development are more costly to service with adequate roads, schools, police and fire protection, and water and sewer than is concentrated development.

**Physical Development Limitations Policy**

Land that has inherent limitations for development because of soil permeability, topography, drainage, shrink-swell characteristics, flooding, depth-to-bedrock and other physical development constraints should be restricted from development.

**Avoidance of Potential Land Use Conflicts Policy**

The development of land in rural or unique resource areas for urban residential uses may encourage severe land use conflicts. Such conflicts should be avoided.
Agricultural Land Policy

Land that is predominantly being utilized for the intensive cultivation of crops and which is uniquely suited for farming operations should be restricted from urban land use encroachments.

Goals are the long term objectives of the community. The following example goals might be established by South Dakota counties and towns.

--an all weather road to every residence in the county,
--modern fire protection for all town and rural property owners,
--adequate recreational facilities for all age group,
--all streets in the city paved with curb and gutter drained by storm sewer.

Objectives might be defined as subgoals which will contribute to the achievement of community goals. Objectives are written in specific terms and are meant to be completed over a short time span. The city or county may revise or add objectives from time to time as old ones are completed and to take advantage of changing opportunities.

The following are examples of county and small town objectives.

--a minimum of 15 miles of new all weather road constructed annually,
--a new fire truck in 3 years,
--a golf course in 5 years,
--an industrial park in 2 years,
--a county library in 4 years.

Plan Formulation

The third stage of the planning process is the plan formulation stage. It is the basis for the zoning regulations and other regulatory measures devised in the next and final step. As a minimum, the physical developments plan should contain four components: a land use plan, a transportation plan, a public facilities plan, and a housing plan. Depending upon the needs of the city or county, additional plans might be desirable. Such plans might include a parks, recreation and open spaces plan, a public utilities plan and a central business district plan. Some communities might even want to include a visual environmental or beautification plan.

While no one knows exactly what the future will bring, we do know some of the basic requirements of agriculture, recreation, business and industry. We know in South Dakota, that farm population is continuing to decline but the land in agricultural use is quite stable. We know that the rapid growth and demand for land for development purposes is on the fringe of our larger cities and towns. Based upon the data of past trends and projections for the future, a comprehensive physical plan for orderly future development and wise land use may be drawn.

When drawing the physical development plan the purposes for which it is to be used should be kept clearly in mind. It must serve four basic purposes.
1. as a guide for the future public and private development of the county or city.

2. as a guide for writing the zoning ordinance and other controls.

3. as a guide for the zoning commission and board of adjustment as they make decisions on applications for zoning changes, variances, etc.

4. as a guide for planning capital improvements.

As noted above, the comprehensive plan is a guide. The maps drawn in this phase show the general location of such future developments as schools, recreational facilities, subdivisions, and industrial parks. The zoning ordinance with accompanying maps will be drawn to show the specific boundaries of present and potential agricultural, residential and commercial use zones, along with the transportation arteries and public utilities.

The term land use plan is a misnomer because all the other plans show the use of land also. The land use plan, however, is the base upon which all other plans are drawn. The land use plan shows the general allocation of the land resources for agriculture, housing, commerce, industry, recreation, education, public buildings and other categories of both public and private uses of land.

This is a task for the professional planner based on policies established by the planning commission. Over-allocation of land for any purpose can result in a waste of land or nonconforming uses. Under-allocation will result in a congestion and the scattering of identical use zones contrary to a policy of grouping similar and compatible use zones. Space requirements should be based upon technical standards and studies of community needs.

The land use plan consists of a map or maps and the necessary supporting documents. The text should describe the basis for estimating future needs along with data on soil type, topography and present use. This material is the basis for the delineation of the boundaries of various use zones.

The transportation plan consists of a map and other descriptive data showing the general location, character and extent of existing and proposed major roads, streets and highways, along with airports and railroads. The transportation plan is closely related to the long range plans of the State Department of Transportation.

The public facilities plan shows the general location, type, capacity and area served of present and projected or needed facilities including city hall, courthouse, fire station, recreation facilities, schools, libraries and other public building. Public utilities and services such as water and sewer systems, electrical distribution and telephone systems, water treatment plants or storage lagoons and solid waste disposal areas are also included. The supporting texts might include the age and condition of present facilities and a timetable for their renovation or replacement.
The housing plan indicates the location and condition of the various types of housing with projections of future needs. The various housing districts, such as single family residence and mobile home parks, are not shown in the housing plan. These delineations are left to the zoning map.

With increased leisure time of most Americans, the need for community recreation facilities has become more evident. A parks and recreation plan is desirable for at least two reasons: (1) if grant funds are sought for outdoor recreation facilities a community recreation plan is a requirement, and (2) many people who have no interest in other parts of the comprehensive plan will be interested in recreation planning. This will stimulate interest and support for the entire comprehensive plan.

The recreation plan should show the present and proposed location of all recreational facilities along with an inventory of recreational equipment and needs for the future. All publicly used recreational facilities, whether public or privately owned, should be included in the recreation plan.

It has been often said that if only one plan was to be written it should be a capital improvements plan. The capital improvements plan is a recap of all of the public improvements projected in the previous plans along with a suggested priority ranking and timetable for completion. The location of future capital improvements greatly influence where and when future development will occur. For example, if water and sewer are extended into one undeveloped area and not others, development will occur where the essential utilities are provided.

Implementation

The last stage of the planning process is the implementation stage. The comprehensive plan is implemented by two parties: the local government, and private investors who develop property for public and private use. The comprehensive plan provides the overall guidelines.

If the guidelines laid down in the comprehensive plan are to be followed, effective control methods must be employed. Local governments have at their disposal a variety of tools they can employ which effectively control development. Local governments can tax and spend money for particular developments and purposes, they can inform the people and they can pass ordinances which regulate development. Such regulations are zoning ordinances, housing and building codes, subdivision regulations and health and safety codes.

The need for public education on the development of objectives of the city or county cannot be overemphasized. In the absence of factual information, rumors and misinformation will arise which can cause controversy to the detriment of the entire planning and development effort. If the public has been informed of the details and goals of the comprehensive plan, it will more readily understand the need for the control measures and will lend their support to carrying out the plan's objectives.
One of the methods often used to inform the general public is to publish a popularized version of the comprehensive plan for widespread distribution. Usually the complete plan is too lengthy for general use and publishing costs might be prohibitive for most South Dakota towns and counties.

County and municipal zoning is local control. Zoning ordinances are passed by the governing body of either the municipality or the county for the purpose of regulating change in their respective jurisdictions. Zoning only affects future change; it cannot correct past mistakes. Zoning, if properly administered, is flexible to allow for changing conditions.

Appended to this publication is the Table of Contents of a county comprehensive plan which is shown as an example.

CHAPTER IV

COUNTY AND MUNICIPAL ZONING AND SUB-DIVISION REGULATIONS

Traditionally the use of land has been the right of the property owner, growing out of the concept that the wilderness and frontiers were inexhaustible. With the closing of the frontiers and increasing population and industrialization, the desire of property owners often came into conflict with the rights of neighboring owners. The concept changed to mean that a land owner may use his land as he wishes only until the chosen use infringes on the rights of others.

Zoning is the division of land into districts (or zones), each having different uses. It is a legal process designed to protect the individual and the community or county from uses of land which are potentially harmful or which conflict with the community's or county's development objectives.

Zoning may control the height and placement of buildings and structures; it may regulate the area of buildings, yards, courts and other open spaces; it can ensure the proper use for each parcel of land within the community's or county's jurisdiction; it may limit population density by controlling the size of lots and use of buildings. Zoning is a tool used to guide future development.

The need for such a tool was recognized in colonial times when powderhouses and slaughterhouses were prohibited from locating near other developments. It is not surprising that zoning began in cities as people began living closer together. As cities began spreading into the open countryside the need for rural zoning became evident. Farmers object to tax assessments based on speculative land values; they complain of taxes levied to pay for schools and public utilities required for the non-farm population. The non-farm population complains of barnyard odors and agricultural practices such as crop spraying and
cultivation which spreads chemicals and dust on their homes, lawns and automobiles.

If problems such as these are to be solved they must be solved through public rather than private action. These issues are too far ranging for private parties to settle individually. The interests of all people must be protected.

The power to regulate is a power of the state through its broad police powers. South Dakota, as well as the rest of the states, has passed enabling legislation granting the powers of zoning to local units of government. Historically municipalities have utilized these powers most extensively but more recently counties have began to use this authority.

The constitutionality of zoning was upheld in the landmark case of the village of Euclid vs Ambler Realty. Since that time the separation of land by uses is sometimes called Euclidian zoning.

Until 1975 municipalities enacted zoning regulations as ordinances and counties passed them as resolutions. The 1975 South Dakota Legislature changed the statutes to allow counties to pass zoning regulations as either ordinances or resolutions.

A zoning ordinance may create urban and suburban type zoning districts (residential, commercial and industrial) or it may establish open country zones (agricultural, forestry, recreational and grazing). It is also quite possible for both types to be established in a single zoning ordinance, depending upon the needs of the community.

Zoning is one of several tools used to encourage the most appropriate use of land throughout the city or county. Other companion tools, which are often confused with zoning laws, are subdivision and sanitary regulations and housing and building codes.

Zoning affects property values. Incompatible uses of land are kept apart. Zoning can keep industrial and commercial developments out of residential areas. It can prevent urban sprawl in agricultural areas. Regulations pertaining to lot size, set back lines, building height and population density can make an area more attractive and thus preserve and enhance the character of the area. Zoning can promote public health and safety by requiring that lakeshore lots be large enough to allow for the safe disposal of septic tank effluent and by requiring homes to be space far enough apart to prevent the spread of fire. It can prohibit traffic generating businesses from locating near schools and playgrounds.

Zoning can be an important factor in attracting business and industry to an area. Business and industrial zones set apart from residential neighborhoods provide protection against complaints about noise and the traffic generating character of such developments.

Zoning is not a panacea for all the ills of a community. Because zoning looks to the future it cannot remedy past mistakes. It is a means of promoting sound development of all resources for their highest value use. Zoning must be used only to further the public interest. It ought never to be used to confer special advantage or gain on favored
individuals. Such uses of zoning are subject to challenge in the courts.

Zoning regulations cannot be unduly restrictive upon the landowner either. The fifth and fourteenth amendments to the U.S. Constitution protect the landowner against the "taking" of land without "due process of law" or "without just compensation." Zoning does not take the title to land from the landowner, however, zoning regulations can be written in such a manner that the landowner cannot use the land for any economic purpose. Some courts have interpreted such regulations as taking the land without due process of law or without just compensation.

The zoning ordinance or resolution is a legal document consisting of two major parts—the zoning text and the zoning map.

The Zoning Text

Generally the first article contains the basic information as to the name of the municipality or county, the date when enacted and a reference to the state enabling act from which the regulation was derived. The second article consists of definitions of the terms used in the text.

The following information should appear somewhere in the text, preferably in separate articles although not necessarily in the order presented.

The enforcement procedures and penalties section states the required zoning permits and certificates of occupancy, if desired. It specifies the penalties for violation of the resolution or ordinance. The South Dakota county zoning statute classifies a zoning violation as a misdemeanor and provides for fines of up to one hundred dollars "for each and every day that any violator fails to comply" (SDCL 11-2-33). The municipal zoning statutes state that "proper local authorities...may institute any appropriate action...." (SDCL 11-4-7.)

Another article will deal with the nonconforming uses in existence at the time the zoning resolution or ordinance was passed. It will usually state the terms under which the nonconforming use might be terminated. (For non-conforming uses in counties see SDCL 11-2-26, 27, for municipalities see SDCL 11-6-39.)

The administration article of the zoning instrument establishes the office of zoning administrator or inspector and the board of adjustment. This article outlines the responsibilities for the administration of the resolution or ordinance. It details the rules for the granting of variances and special exceptions, notices and fees required, and the procedure for appeal to the board of adjustment.

The ordinance should describe the procedure for amending the zoning regulations, which in South Dakota is the same as for the enactment of the original ordinance.

The heart of the zoning ordinance or resolution is the article which ties the zoning map to the official controls. This article establishes the various use districts as shown on the zoning map. The
text of this article lists the permitted uses in each of the zones. It will cite the uses permitted under special circumstances (a riding stable in an agricultural zone or a nursing home in a residential area if suitable parking and space requirements are observed, etc.).

One of the most frequently overlooked parts of a zoning ordinance or resolution is the statement of the purpose for each zone as determined in the comprehensive plan. Purpose statements establish the relationship between the comprehensive plan and the zoning regulations. This is useful for two reasons. First, it is a guide for the zoning administrator in the daily administration of his or her duties; and second, it is the justification for the regulations if they are tested in the courts by those desiring to make significant changes in the area. The following is an example of a purpose statement of an agricultural-residential district for a small city.

This classification is designed primarily to preserve and protect agricultural land on the fringe of urban areas, pending urban development for residential purposes. This classification informs the public that the land may be developed for residential purposes and other land uses that might conflict with such uses should be avoided, or they should be developed on a temporary basis only. Such districts would be located on other than prime agricultural lands, having moderate slopes, and outside existing urban areas but where public utilities and services either exist or could be provided. (Source: Model Zoning Ordinance for Small Communities in the Sixth Planning and Development District, p. 8.)

Additional articles might be required to deal with such problems as special regulations for vehicle storage, off street parking, the size, design and placement of signs and mobile home parks.

The Zoning Map

The zoning map is an essential part of the zoning ordinance and must be drawn so that there is no ambiguity of the boundary line locations. The zoning map is subject to constant revision as amendments to the zoning ordinance are made. It is essential that the official map be kept current. The following are necessary parts of a proper zoning map:

Title - This should include the title of the map, the name of the county or municipality and the date when enacted.

North Arrow, Scale and Legend - The legend should clearly show the distinction between the lines used to demarcate municipal, township and county boundaries, streets, and zoning boundaries.

Zone Identification - Each and every area zoned must be clearly identified. The meaning of all abbreviations or codes used on the map must be clearly defined.

Provisions For Changes - Space should be provided for notations and dates of amendments to the map.
Official Signatures - The map and date of adoption are signed by the mayor or county commissioners. Space should be allowed for signatures and dates of subsequent amendments.

The official zoning map might consist of several separate maps. Detailed maps of the individual use districts might be kept.

County zoning controls are an integral part of the county comprehensive plan. After the county commissioners receive the plan, including controls, from the county planning commission it must send an informational copy to the State Planning Bureau and publish once a week for two successive weeks a notice of the time and place of a public hearing (SDCL 11-2-19). After the public hearing the board may accept the plan and adjuncts by resolution or ordinance or they may return the plan or adjuncts to the county planning commission for revision. If the plan and adjuncts are accepted, the county commissioners must file the action with the county auditor, send a copy to the State Planning Bureau and publish a summary of the plan and adjuncts once in the official county newspaper. The statutes require that the summary be prepared by the planning commission and reviewed by the states attorney before publication. The plan and adjuncts take effect 20 days after publication (SDCL 11-2-21).

If the county board desires to pass temporary zoning controls before the acceptance of a county comprehensive plan it may do so, but only if plans are underway for writing of a county comprehensive plan. The temporary ordinance is valid for one year with a renewal provision for one additional year. The board must hold at least one public hearing before enactment (SDCL 11-2-10).

The county comprehensive plan, together with the zoning measures or separately, may be brought to a vote of the electorate if 10 percent of the electors, as determined by the last gubernatorial vote, petition to have the adoption or rejection of the plan or adjuncts placed on the ballot at the next primary or general election (SDCL 11-2-22). If the voters reject the plan or adjuncts, the county commissioners may return it or them to the planning commission for revision after which the county commissioners may adopt the revision by resolution using the same procedure as for the original plan (SDCL 11-2-22.1).

Two separate parts of the South Dakota Compiled Laws deal with municipal planning and zoning; Chapter 11-4 and 11-6. The enabling legislation which deals primarily with municipal comprehensive planning is in Chapter 11-6. Legislation concerned primarily with municipal zoning is in Chapter 11-4.

Procedure for adoption of the comprehensive plan as outlined in Chapter 11-6 of the South Dakota Compiled Laws is as follows:

--The planning commission must prepare a plan for the municipality and any areas outside the municipal boundaries which bear a relationship to the planning of the municipality (SDCL 11-6-14).

--The planning commission must hold at least one public hearing on the plan before it is submitted to the municipal governing body for approval. Notice of the hearing must be given at least
15 days in advance by publication in a newspaper of general circulation. The plan may be acted upon as a whole or in parts. However, before the plan or any of its parts is submitted to the municipal governing body, a hearing must be held and an information copy sent to the State Planning Bureau (SDCL 11-6-17).

--Upon receipt of the comprehensive plan or any part or parts from the planning commission the municipal governing body must again hold a hearing giving public notice of the hearing under the same terms as the hearing held by the planning commission (SDCL 11-6-18).

--The adoption of the plan or any part or parts must be by resolution of the municipal governing board and supported by at least a majority of all of the members (SDCL 11-6-18).

--A copy of the governing board's action must be filed with the city auditor or clerk and another copy sent to the State Planning Bureau. A summary of the action must be prepared by the planning commission and received by the city attorney and published once in the official newspaper. The plan will take effect 20 days after publication (SDCL 11-6-18.2).

--The action of the municipal governing board may be referred to the voters in the same manner as used in referring any other city ordinance (SDCL 11-6-18.3).

--If the voters reject the comprehensive plan the municipal governing body may return the plan to the planning commission for revision after which the process of adoption, as outlined, is repeated (SDCL 11-6-18.3).

--After adoption, no public or private construction if covered by the comprehensive plan may be undertaken without the approval of the planning commission (SDCL 11-6-19). The planning commission may be overruled by the municipal governing body, however, such action requires a two thirds vote of the entire membership (SDCL 11-6-20).

One very important exception to the comprehensive plan adoption process as outlined above is when the comprehensive plan, as submitted to the governing body for approval, includes zoning controls. If the plan includes zoning controls the provisions of Chapter 11-4 will apply to the zoning ordinance.

The following is the procedure for the adoption of the municipal zoning ordinance as contained in Chapter 11-4 of the South Dakota Compiled Laws.

--Zoning ordinances must be made in accordance with a comprehensive plan (SDCL 11-4-3).

--Zoning ordinances are acted upon by the municipal governing body in the same manner as any other ordinance except the auditor or clerk must publish, once a week, for two successive weeks, prior to the date of adoption, a notice of time and place where
a hearing will be held (SDCL 11-4-4).

--If adopted, the ordinance shall be published and take effect as other ordinances unless the referendum is invoked (SDCL 11-4-5).

There are four distinctive differences between the municipal comprehensive plan and municipal ordinance adoption procedures. The planning commission is not required to hold a hearing before submitting the ordinances to the municipal governing body (they must hold a hearing on the comprehensive plan); neither the planning commission or the governing body are required to send copies of the ordinance to the State Planning Bureau (both bodies must submit copies of the comprehensive plan); notice of the hearing on the comprehensive plan must be given at least 15 days in advance while the notice of the ordinance hearing must be printed once a week for at least two successive weeks; just a summary of the comprehensive plan is required to be published once in a local newspaper but the entire zoning ordinance must be so published.

The entire municipal ordinance may be referred to the voters in the same manner as any other ordinance or as a result of a written protest. The written protest signed by at least 40 percent of the landowners of any proposed district as well as by landowners within 150 feet of any part of the particular district will render the ordinance ineffective as it applies to that district (SDCL 11-4-5).

The ordinance may be changed at any time. Changes are made by the same procedure used in the passage of the original ordinance. The municipal governing body may require, as a condition for the introduction of a proposed change in the ordinance, the written consent of the owners of 60 percent of the aggregate area having the right to protest such changes (SDCL 11-4-8, 9).

A 1975 legislative change provides for the enactment of a temporary municipal zoning ordinance. The municipal governing board may pass such an ordinance after public hearing. The ordinance is valid for one year with a renewal provision for one additional year (SDCL 11-4-3.1). Counties have had the authority to pass a temporary ordinance with the same stipulation since 1967 (SDCL 11-2-10).

The basic goals of zoning will apply to the design of all districts regardless of the use. These goals are: to protect the health, safety and general welfare of the citizenry, to control the density of population, protect property values, prevent excess public utility costs, separate incompatible uses, and to use land for purposes for which it is best suited. Various devices are used to achieve these ends. For example, regulations controlling the placement and height of buildings and lot size will help to achieve all of the above mentioned goals in varying degrees.

The number and purpose of districts will vary for each county and municipality depending upon the circumstances unique to the area. South Dakota law provides for municipal planning and zoning by the county planning officials if requested by resolution of the governing board of the municipality. (The municipal governing body must then adopt the plan
and controls by resolution SDCL 11-6-18.) Such counties will require districts for densely populated areas as well as open country districts.

Districts in the intensely farmed agricultural areas of eastern South Dakota will be vastly different from the districts required for the range conditions of western South Dakota or the forests and recreation areas of the Black Hills. South Dakota law requires that the regulations pertaining to uses in each district must be the same but may vary between districts. For example, the lot size, set-back, etc., must be the same in all "General Residential" districts but the same regulations may not necessarily apply to the district zones "Commercial" (SDCL 11-4-2).

Agricultural Districts

Agricultural zones will be the predominant zone on most county zoning maps. However, they can vary from the one extreme of exclusion of any kind of non-farm use to the other extreme of inclusion of non-farm residences, industry, and commerce, with agriculture filling in the open spaces. The kind and amount of non-farm use to be allowed should be determined by a study of the land characteristics and the goals of the community.

The preservation of our most productive agricultural land has received higher priority in recent years with the realization that the amount of productive land is fixed and world population is growing. An expanding population not only requires more food but also more space for needs other than food production. Prime agricultural land is also well suited for other kinds of development, and at a higher return to the landowner or speculator. The burden of maintaining the proper balance (whatever that may be) is the responsibility of the county planning commission. The task will be infinitely easier if zones are based upon soil capability studies and well written policy statements.

Few agricultural zones will exclude all other uses. It is doubtful if this is even desirable. As a minimum, such zones should allow agriculturally related enterprises such as farm machinery sales and repair, agricultural product hauling, fertilizer and chemical sales and services, feed and seed sales and rural recreation enterprises.

In areas adjacent to our larger population centers the trend has been toward non-farm residences cropping up on small plots of land on well traveled highways. Numerous reasons have been cited for this phenomenon, such as lower taxes, rural environment, and space for a growing family. Farmers have been willing, sometimes eager, to sell such acreages at prices exceeding the value of farmland but well below the cost of comparable space in the city.

In some states attempts have been made to accommodate such developments by the designation of rural residential districts. It is a compromise which solves few problems but does confine the problem to a given area. If such a course is pursued, the zoning ordinance should be very carefully written to avoid conflicts with agricultural uses and possible future urban expansion. Minimum lot size should be set high enough to establish a buffer zone between possible incompatible uses.
but not so high that large portions of the property will be neglected. Set back requirements should conform to the nearby municipal ordinance requirements.

Planning and Zoning the Urban Fringe

Sections 11-6-10, 11, 12 and 12.1 of the South Dakota Compiled Laws provides for the joint planning and zoning of the area lying up to 3 miles outside the corporate city limits by both the city and county planning commissions.*

Under the terms of the law the county and municipal planning commissions shall meet and draw up plans for the area. After completion, each planning commission is required to make recommendations to their respective governing bodies for zoning of the area. After notice and public hearing the county commissioners and the municipal governing board meet jointly to take action upon the recommendations of their respective planning commissions. The area cannot be zoned unless the county commissioners relinquish their jurisdiction to the municipality by resolution or unless each of the governing bodies pass substantially identical zoning regulations for the area.

As a further alternative the two governing bodies may establish a joint planning commission to make recommendations for the zoning of the area. The board created has no special powers other than the powers vested in the respective planning commissions (SDCL 11-6-38).

The statutes are designed to provide for a transition zone between city and open country and to provide for future orderly development of the area should the city expand its corporate limits. In some cases this area is "no man's land" because the rural and urban parties cannot agree on zoning controls for the area.

Residential Districts

Traditionally the highest priority or most restrictive residential district has been the single family district. The theory behind this practice was that multi-family homes would lower property values if allowed in single family districts. In recent years the validity of this theory has been questioned. Variety of housing styles and sizes relieves the monotony of single family homes and adds interest to a neighborhood. The courts have also held that ordinances requiring strict adherence to the single family concept are unconstitutional on the grounds that it tends to promote social segregation.

Higher density residential uses require more parking space and generate more traffic. Therefore areas zoned for apartment houses, condominiums and the like should have ready access to main traffic arteries and ample space for parking and play areas. Building height restrictions not only control population density but should limit the height to the capacity of the local fire fighting equipment.

*If the municipality does not exercise its extra-territorial rights, by including plans of the area in its comprehensive plan, the area is planned and zoned exclusively by the county.
In most cities there are certain non-residential uses which are associated with and compatible with residential neighborhoods. Among these are churches, day care centers, schools, libraries, parks and playgrounds. These uses generate additional traffic and require space for parking, and should be planned accordingly. The safety of the residents should be given every consideration when planning for such developments. They should be located on streets capable of carrying the larger volume of traffic and with adequate off street parking.

It is virtually impossible to eliminate home occupations (businesses within the homes) in residential neighborhoods. As a matter of custom they have been allowed and will probably continue. Such uses usually do not cause any major problem, except when the home occupation grows and expands into a major enterprise. To keep home occupations within reasonable bounds, rigid controls should be enacted. Such controls should include size and placement of advertising signs, the number of non-resident employees allowed, and the percentage of the floor area in the home devoted to the enterprise. Some examples of home occupations usually allowed are TV and appliance repair, furniture reupholstery, beauty salons, watchmaking, and dental and other professional services.

One of the major problems faced by planning commissions is how to deal with the mobile home. Mobile homes have largely lost their mobility and have become semi-permanent residences with floor space rivaling the conventional single story home.

Most students of city and county planning agree that mobile homes should not be intermingled with conventional housing. Several reasons are cited. Mobile homes tend to change the character of the neighborhood because of their style and type of construction. Because they usually lack storage space, unoccupied space on the typical home-size lot often becomes overgrown and/or cluttered with items normally stored in a basement or garage. Justified or not, mobile homes affect adjacent property values, which is reason enough to exclude them from traditional home residential zones.

However, mobile homes are a popular type of housing and provisions must be made for them in the comprehensive plan. Older zoning ordinances provided zoned areas for mobile home parks, leaving the decisions on lot size, set backs and parking regulations up to the private park operator. Such decisions were not always made with the occupants' health and safety in mind.

Even in parks well designed for mobile homes of a decade or more ago the larger dimensions of the newer homes have rendered the older plans obsolete. The larger, semi-permanent mobile homes have also led to a trend toward occupant owned land for the mobile home.

Recent plans and ordinances provide for mobile home subdivisions. Such subdivisions allow for both the private operator mobile home park and the occupant owned space. Past experience has shown that mobile home subdivisions should be flexible in design to allow for variations in size and shape.
Some mobile home ordinances provide for mobile home parks on a "permit only" basis. Under these conditions no specific place is set aside for a mobile home park on the zoning map. The ordinance states the minimum standards required for a mobile home park. The location of the proposed park is entered upon the zoning map after a permit is issued. Such zones are sometimes called "floating" zones. This practice has worked out quite well. If the standards are well written the mobile home park does not conflict with adjacent uses of land regardless of the zoning classification. The minimum size (usually 20 acres) should be kept high enough to eliminate the establishment of a park on vacant lots in established neighborhoods. The open space requirements may provide for a buffer zone around the park for the comfort of the mobile home park users should adjacent uses of land be incompatible.

Model plans and ordinances are available from the mobile home manufacturer's association and the United States Department of Housing and Urban Development. The mobile home ordinance should include requirements for the following:

1. Type of park (mobile homes - travel trailers)
2. Drainage
3. Minimum area of entire mobile home park
4. Density (mobile homes per acre)
5. Mobile home space - area - width - fences or lot markers
6. Space between trailers
7. Set back from street
8. Reserve for recreation or open space
9. Park entrance - width, surfacing and safety provisions
10. Width of interior streets, speed limits
11. Width of walks
12. Pavement of streets and walks
13. Type of access street
14. Parking requirements
15. Landscape requirements
16. Tiedowns
17. Entries and storage buildings on lots
18. Community buildings - size, parking, facilities
19. Water supply
20. Sewage disposal
21. Refuse disposal
22. Exterior lighting
23. Fire protection
24. Fuel

Commercial Districts

The tendency in the past has been to overzone for commercial purposes. Property owners have been eager to have their property zoned commercial because of possible greater sale value. Chambers of commerce have encouraged a larger business district in the belief it would increase business volume. As a result, in many cities and towns, land not commercially developed but so classified is neglected, and homeowners in commercial zones are reluctant to make needed repairs and improvements.
Most planning experts will agree that only about 5 percent of the city's land area should be zoned for commercial purposes. This figure might be raised if a substantial amount of off-street parking is planned. The recent innovation of shopping centers has increased the need for more space in commercial districts, largely because of off-street parking.

In some of the larger towns and cities in South Dakota there will be a need for several types of commercial zones. A practice that has been followed for many years, and works quite well, provides for a central business district and for neighborhood business districts. The latter type makes allowance for convenience stores in residential neighborhoods. Shopping centers, however, should be considered under subdivision regulations.

Industrial Districts

There are usually two kinds of industrial districts—light industry and heavy industry. Only the larger South Dakota cities might consider both types. Most small South Dakota communities will have just one industrial district. In this district welding shops, feed, seed and fertilizer mixing and processing plants, and industries which generate some noise, and/or smoke and dust, would be located. Industrial districts should be on main transportation routes and served by public utilities.

Traditionally the dividing line between industrial and commercial districts has been unclear, particularly in small communities. The two uses are not always incompatible. Uses which might be more commonly classified commercial are often allowed in a light industrial district. Some of these would include warehouses, auto sales and service, auto body repair, restaurants and drive-ins. Some small towns have combined the industrial and commercial districts into one commercial-industrial district which legalizes their present situation.

Many of the problems associated with the location of industry in cities under-going rapid industrialization might be solved by the creation of an industrial park. In most instances this involves the development of an area with the necessary public utilities, streets and alleys. Traffic arteries are built to accommodate long and heavy trucks. Setbacks and side yard regulations allow ample space for loading, unloading, and parking. Industrial parks are located in such a manner as to avoid the need for generated traffic moving through commercial and residential districts.

There is no rule-of-thumb guide for the amount of land which should be set aside for industrial use. This is an estimate which should be made after study of present needs and trends.

Special Purpose Districts

South Dakota law does not place any limitations on the number of different types of districts the planning commission might create. Land is a basic resource and, as such, it is required for practically every kind of activity. The kinds of districts created will be determined by the unique characteristics of the land and the social, economic
and institutional needs for the land space.

Some counties and/or cities in South Dakota may need to form districts such as recreation, mining, grazing and forestry, depending upon the resources and the goals of the comprehensive plan.

Such special districts should not be confused with another type of special district; the special tax district within those boundaries the property is taxed for special purposes. The special tax district is discussed in the Chapter entitled "Other Tools For Community Development."

Subdivision Regulations

Chapter 11-2-17, which deals with county planning and zoning states, "Official controls may (author's emphasis) include specific regulations and controls pertaining to other elements incorporated in the comprehensive plan or establishing standards and procedures to be employed in land development including, but not limited to, subdividing of land and the approval of land plats and the preservation of streets and land for other public purposes requiring future dedication or acquisition and general design of physical improvements."

The language of the statutes which deal with comprehensive city planning is even more specific. "In exercising the duties granted to it by this chapter, the planning commission shall (author's emphasis) recommend and the council shall (author's emphasis) by ordinance adopt regulations governing the subdivision of land within its jurisdiction... (SDCL 11-6-27)."

It would appear that the writing and passage of subdivision regulations is optional for county planning commissions and mandatory for city planning and commissions. However, the 1974 law, SDCL 11-2-11, requires the county planning commissions to prepare, before July 1, 1976, a comprehensive plan, zoning ordinance and map, and subdivision ordinances. Thus the preparation of subdivision ordinances by county planning commissions is no longer optional.

SDCL 11-6-26 further states that the city planning commission and city governing board may have jurisdiction over all land subdivision lying within 3 miles of the corporate limits of the municipality if a minor street plan for the area is included in the comprehensive plan and a certified copy filed with the register of deeds. (If the 3-mile jurisdiction conflicts with the jurisdiction of another municipality the jurisdiction of each municipality ends at a point equidistant between the two corporate limits.) The municipality also has jurisdiction over all subdivisions adjoining or contiguous to its boundaries regardless of whether a major street plan has been filed for the area (SDCL 11-3-6).

If there is joint municipal-county zoning jurisdiction in the 3-mile (or less) area surrounding the corporate limits of the municipality, no plats may be recorded until a copy has been submitted to the county planning commission for review and recommendation to the city governing body. According to law such recommendation must be made within 45 days.
If the county planning commission recommends disapproval, a two-thirds affirmative vote of the entire membership of the city governing body is required before the plat may be recorded (SDCL 11-6-26.1).

If a major street plan has not been recorded by the municipality and there is no joint city-county planning and the area is not contiguous to the boundaries of a municipality the county retains exclusive jurisdiction authority.

Writing Sub-Division Regulations

Most sub-division regulations stipulate a five-step procedure which a prospective developer must follow before the subdivided land may be offered for sale. These five steps are: unofficial review or sketch plan proposal, preliminary plat, construction of improvements, final plat, and recording of plat.

Unofficial review. While this step is labeled "unofficial" it has become a well established procedure. It is the first step in the negotiations between the planning commission and the land developer. No formal action is taken by the planning commission at this stage, hence the term "unofficial review."

During this stage the developer submits a "back of an envelope" sketch of his planned development along with a map showing the proposed location. This opening round gives the developer the opportunity to learn from the planning commission what will be required before the developer has spent large sums for detailed plans. At this point "good faith" is implied by both parties. The planning commission could change its requirements and the developer could change his plans as well.

In this preliminary stage the developer and planning commission might discuss such matters as drainage, open space requirements, land to be dedicated to public uses, ground cover and soil characteristics. The planning commission might request certain technical data on the land in question from the developer. The developer too might request the requirements which must be met before the plan would be approved.

During all the stages of the subdivision process the governing body of the county or municipality should be involved in either joint meetings with the developer or, as a minimum, unofficially because the governing body must approve the final plat before it can be recorded by the Register of Deeds.

The preliminary plat. This is the first formal action stage by the planning commission. In this step the developer submits a preliminary plat which is really a detailed plan. While the plan is labeled "preliminary" it might be the final plat as well. The planning commission should approve the preliminary plan only after very careful consideration because the next step, construction of improvements, will be based upon this plan. Once construction has begun any future changes become very costly.

The planning commission, as part of its approval process, should circulate copies of the preliminary plan to other departments and agencies such as the city or county engineer, zoning administrator,
health department, utility departments, the school board, and, of course, the governing body of the city or county. This is important because when the plan is approved the responsibility for the future maintenance of streets and public utilities, as designed, shifts to the city or county.

Construction of improvements. As a general rule any improvements are prohibited until the preliminary plan has been approved. After approval, however, the planning commission takes no further official action until the improvements are completed. During this stage the responsibility shifts, or is delegated, to the city or county engineer to assure that proper construction standards are maintained.

The planning commission may have approved any one of several options the developer must complete before the plat may be given final approval. Some of these options open to the developer are:

1. Install all improvements at developer's expense.

2. Petition that the county or municipality construct the improvements and levy the cost against the property by special assessment.

3. Post performance bond guaranteeing improvements by a specified date.

Often subdivision ordinances will specify that improvements must be completed within a given time period, usually one year or at a time specified by the planning commission.

Final plat. This stage is the last chance the planning commission will have to make any changes in the subdivision. Copies of the plat have been circulated among city and county departments and agencies concerned and their comments returned. Some subdivision ordinances require the approval or rejection of the city or county engineer and other agencies and departments within a specified time period.

The final plat might be one or several plats, depending upon the extent to the subdivision improvements and the stipulations in the subdivision ordinance. One plat must meet the form and requirements of the Register of Deeds (see below). This plat shows lot lines, streets, utilities easements, and other information on land titles. Other plats, for use by departments of the city or county, might show the location of water and sewer lines and other utilities. These maps or plats are primarily for the information of those departments responsible for maintenance of the utilities.

Recording of plat. South Dakota law is very specific on the plat recording procedure and form. SDCL 11-3-7 states, "Every addition or subdivision within a county shall be named as follows, to wit: _______ Addition to the city (or town) of _______, or _______; or Addition in the county of _______. No plat which does not comply with this section shall be entitled to record or be recorded." SDCL 11-3-10 further stipulates the size of the plats submitted for recording. "All real estate plats filed with the register of deeds shall be of uniform size, fifteen by twenty-six inches or eight and one-half by
fourteen inches. No other such plat shall be recorded."

All plats submitted for recording must show the inlots and outlots along with the precise length and width of each lot and their numbers. The map or plat must also show the location and dimensions of all streets, alleys and roads which may cross or border the area being platted (SDCL 11-3-3). The plat must be certified by the surveyor that all the information is correct (SDCL 11-3-4). The subdivision regulations should require the location of all utilities and other improvements as the planning commission may require.

Before recording, the plat must first be submitted to the city planning commission for its recommendation to the city governing body. The planning commission must make its recommendation within 60 days (SDCL 11-6-26). Upon receipt of the application for plat the city governing body must hold a hearing and approve or disapprove within 90 days or the plat will be considered to be approved and a certificate of approval issued on demand (SDCL 11-6-31, 32).

In the next step a copy of the plat must be given to the director of equalization and a certificate issued that this requirement has been met. There must also be an endorsement or certificate issued by the county treasurer that all taxes have been paid (SDCL 11-3). If these requirements have been met the plat may then be recorded by the register of deeds for a $2.00 fee provided that the plat has been examined and accepted by the county commissioners (SDCL 11-3-11). Plats of subdivisions within the corporate limits of a municipality or within the 3-mile limit and under joint city-county jurisdiction need not be approved by the county commissioners (SDCL 11-3-8).

The form and procedure for recording a plat of a subdivision lying outside the corporate limits of a municipality and not under joint city-county 3-mile jurisdiction is much the same, except as follows:

If the land platted does not abut upon a municipality the plat does not have to be approved by the county planning commission but must be submitted to the county commissioners for approval. State law does not stipulate a time within which the county commissioners must act on the plat nor does it require that a hearing be held (SDCL 11-3-8).

If the land being platted does abut upon a municipality the plat must be submitted to the governing body of the city for approval and so certified by the city auditor or clerk (SDCL 11-3-6). The county commissioners must then approve the plat before it may be recorded. No planning commission approval or hearing is required. If it is deemed desirable that such requirements be met by the developer they can be included in the county subdivision regulations.

All of the above mentioned conditions must be met before the developer can sell any of the lots in the subdivision. Chapter 11-6-35 provides for a penalty of up to $100 for each and every lot sold before the plat is recorded.

In the foregoing section the implication has been that the planning commission makes each decision arbitrarily, that there are no overall regulations which apply to any and all subdivision applications.
Obviously this is not true. The planning commission must prepare, and the municipal governing board pass after a public hearing, a set of ordinances which apply to subdivisions (SDCL 11-6-27). County subdivision regulations are considered as adjuncts to the comprehensive plan and are subject to the same hearing and adoption rules as the comprehensive plan and zoning ordinance.

Subdivision regulations are primarily design criteria. They begin with a few general requirements and then deal with specific design criteria.

General requirements. The ordinance should begin with the requirement that all subdivisions must conform to the comprehensive plan and meet all zoning ordinances. The section should also prohibit any subdivision on flood plains or certain soil types and/or terrain. Another general requirement might be that all streets and utility lines must connect, and be in conformance with the design and capacity of existing streets and utility lines.

Specific design criteria. Streets and alleys are of primary importance. The regulation should stipulate the amount of right-of-way, widths, grades and surface requirements for each type of roadway such as highways, arterials, collectors, locals and alleys. The regulations should consider the design and visibility of intersections. The regulations should also cover the same requirements for sidewalks.

The regulations for lot size should include the size, shape and setback lines for both regular and corner lots. If the subdivision is other than residential, off-street parking and loading space should be considered.

Other sections in the ordinance might include regulations on required easements (waterways, utilities, etc.) building restrictions and dedications.

A major article in the regulations deals with the required improvements. These include the standards for street and alleys, curb and gutter, water mains, sewers (sanitary and storm), property markets, street signs, trees and other improvements which may be required.

Subdivision regulations should also state the information required by the planning commission for the sketch plan, the preliminary plat and the final plat.

Special or unusual situations. There are some types of subdivisions within which the usual subdivision regulations do not apply. The cemetery, the mobile home subdivision, and the industrial park are particular examples. South Dakota law requires that any subdivision of land containing two or more lots must be approved under the conditions previously described.

Planned Unit Developments. The planning unit development (PUD) is one of the newer innovations in subdivision planning. The purpose of the planned unit development is to allow greater flexibility in design and to take advantage of terrain features and still stay within the overall objectives of orderly community planning.
Planned unit developments are usually large scale developments. Shopping centers, industrial parks and housing projects are examples. The larger developments might include single and multi-family housing, commercial establishments, recreation and other uses of land which under the usual zoning regulations would require separate zones.

Because of the extreme variation in the application of this concept in community planning only a few general rules for PUD's will be covered in this publication.

Land use intensity standards. The professional planner should work out the maximum density per acre if the area planned is residential. This should be stated in the subdivision regulations. The usual method of maintaining the proper population density is by establishing minimum lot size, building height restrictions and the type of dwelling, single or multi-family. In PUD's the density requirement would have to be maintained but lot sizes, height and types of homes would vary with the extra land left for common open space. Terrain not suitable for building might be left as open space recreation area. This removes the need to build roads and extend public utilities in high development cost areas. Furthermore, the attractive features of such land can be retained. The usual practice has been to level such sites and in the process remove old trees, rocks and topsoil. This type of development allows for clustering of housing which lowers utility and street building and maintenance costs. The total number of dwelling units would remain the same as in the conventional subdivision but there the similarity ends.

Maintenance of open space. The common open space thus created poses a problem. It can be dedicated to the city or county which would then have to shoulder the maintenance cost. Many are unwilling to do so. Another course of action is the formation of a home-owners association which by deed restrictions requires a levy on the property owners to pay for maintenance. Other solutions to the problem might be suggested. In any event, the planning commission, before approval of the subdivision, should be assured that adequate arrangements have been made for the maintenance of the common space.

Other developments. The same principles apply to PUD's other than residential. In the shopping center and industrial park the dominant standard to consider is the floor area per acre. The open space saved by clustering and/or multi-floored structures is used as parking space. Open space maintenance arrangements should be scrutinized carefully by the planning commission before approval.

It is difficult, if not impossible, to foresee all the special circumstances which might arise and to which subdivision regulations might apply. Some subdivision regulations have a separate article or articles for industrial parks and mobile homes. The same features and facilities such as lot size, streets, utilities, signs, lighting, etc., are considered as in the usual residential subdivision but different standards are used.
ADMINISTERING THE ZONING ORDINANCE OR RESOLUTION

The responsibility for the administration of the zoning ordinance rests with the governing body, whether it be the county or municipal governing body. The actual day-to-day administration is conducted by the zoning inspector and the board of adjustment, appointees of their respective governing bodies.

The administration of the ordinance should always be firm and impartial. Lax and part-time administration will bring the ordinance into disfavor. The ordinance should never include any provisions which are not intended to be enforced or enforced only against "outsiders." Such provisions are subject to challenge in the courts.

The most frequent error in administration is "spot" zoning; changing the zoning classification of one parcel of land to suit the interest of a particular landowner or developer. Sometimes such spot zoning is justified—to provide a small neighborhood grocery or laundromat in a residential area, for example. Usually such developments can be anticipated and included in the comprehensive plan. Spot zoning tends to change the character of the neighborhood; therefore, a change in the zoning classification of the entire area might be considered.

Most zoning ordinances require that a zoning permit be issued before any development occurs. This alerts the zoning inspector so an on-site inspection can be made. Some ordinances also require a permit to occupy the premises after the development is completed. The zoning inspector can then inspect the site for assurance that the landowner has complied with the provisions of the ordinance.

The Zoning Administrator or Inspector

In most South Dakota counties and municipalities the task of zoning administrator is not a full-time job. Often the county or city auditor, the engineer, or assessor is assigned these duties. It has been a better arrangement for a county and the municipalities or two or more counties to jointly employ a full-time zoning administrator.

The responsibilities of the zoning administrator are not always compatible with the duties of the office of assessor, auditor or engineer. Added to the primary responsibility, the duties of zoning administrator will tend to be of secondary importance. The zoning administrator is the single most important individual in the entire zoning system. The manner in which the ordinance is administered will determine its success or failure.

The zoning administrator is an administrative official only. It is his or her responsibility to enforce the ordinance or resolution as written. The administrator does not have the authority to make exceptions or issue variances. He or she is not authorized to make discretionary judgments.
The following is a list of the usual duties of a zoning administrator:

1. **Accept and review applications for zoning permits.** If the application conforms to all the requirements of the zoning regulations the permit should be issued. If the application does not conform, the applicant should be informed in writing and given the reasons along with the changes required to bring the application into conformance. The applicant should also be informed of his right to appeal to the board of adjustment for a special exception or variance.

2. **On-site inspections.** The zoning administrator should periodically conduct on-site inspections, particularly before substantial construction has been completed. Once construction has begun, correction of violations can be very expensive to the property owner. Such inspections can eliminate mistakes and assure the general public that the ordinance is being enforced.

3. **Investigation of violations.** The zoning administrator should make periodic tours of his or her jurisdiction to see if any violations are taking place or if developments are occurring without proper permits. This is especially important if zoning is new and people are not acquainted with the permit requirements.

When a violation is detected, a written notice should be sent to the landowner by certified mail. The notice should explain the nature of the violation and state a date by which time the violation should be corrected. The notice should also include the penalty for failure to comply. In the event the violation is not corrected within the stated time, proceedings should be instituted with the city or county attorney for prosecution.

A complete and accurate record of actions taken in connection with all violations should be maintained. This should include all correspondence, dates of notices and inspections. Accurate records will be necessary if court action is required.

4. **Maintain a record of all nonconforming uses.** At the time the zoning resolution is passed a map of all nonconforming uses should be made. Suitable corrections should be made as the use changes in conformance with the ordinance. A periodic inspection of all nonconforming uses should be made to determine if the use has changed or the property vacated.

5. **Maintain up to date zoning text and map.** The zoning ordinance is subject to constant amendment as conditions change. The zoning administrator must, for his own use, have a current text and map. For this reason the responsibility for maintaining the official text and map is usually assigned to the administrator. The city or county auditor will also keep a record of all official actions of the governing board and the board of adjustment.
6. Propose amendments. The zoning administrator will usually be the first to detect errors in the zoning ordinance and situations which may be corrected by amendments to the zoning ordinance. Such changes can be proposed to the governing board for official action.

7. Review subdivision plats and planned unit development plans. The zoning administrator should be consulted by the planning commission before any subdivisions or planned unit developments are approved. The administrator, as a result of his experience, may be able to detect errors in design which might potentially be problems. Any new subdivisions and planned unit developments must meet the existing ordinance.

The Board of Adjustment

It is the responsibility of the board of adjustment to hear requests from landowners for special exceptions and variances to the terms of the ordinance. They have the authority to grant or deny such requests. The board may also be called upon to decide differences in the interpretation of the terms of the ordinance.

The board of adjustment has often been called the "safety valve" of zoning. Without such a board the only recourse a landowner would have in the interpretation of the ordinance or for situations not specifically covered by the ordinance would be the courts, a sometimes costly procedure which would tend to discourage development. The landowner still may appeal to the court if he is not satisfied with the decision of the board of adjustment.

In all decisions, the board of adjustment must put the public interest first. Zoning rests upon the principle that everyone must give up some freedom for the protection zoning gives to all owners of private property and the public. If the decisions of the board benefit a particular landowner to the detriment of others, the decision is contrary to the principle of zoning and the equal protection under the law principle of the 14th Amendment to the Constitution.

Municipalities have three different means of providing for a board of adjustment. The mayor may appoint a five member board to serve a 3-year term (SDCL 11-4-14) or a mayor may appoint the full membership of the planning commission to serve in this capacity (SDCL 11-4-13). As a third alternative the governing board may assume the responsibilities of the board or adjustment (SDCL 11-4-24).

A two thirds vote of the governing board is required to reverse any order or decision of the zoning inspector (SDCL 11-4-24). If a separate five member board of the planning commission has been appointed to the board of adjustment a three-fourths vote of the entire membership is required (SDCL 11-4-23).

It appears that counties have only one course to follow when providing for a board of adjustment. SDCL 11-2-25.1 states in part: "The board of county commissioners may provide for the appointment of the planning and zoning commission to serve as the board of adjustment...." The same section of the law states that a three-fourths
affirmative vote of the full membership of the board is required to
grant variances and special exceptions. The law does not specifically
provide for the appointment of a separate board or for the self-appoin-
tment of the board of county commissioners.

The board of adjustment does not have the authority to change the
zoning ordinance. This power rests solely with the municipal or county
governing board, as the case may be. The municipal governing board,
when acting as the board of adjustment, cannot arbitrarily change the
zoning ordinance or resolution but must follow the procedure used to
enact the original ordinance or resolution.

The board of adjustment does not hold regular meetings but meets
on call when appeals to the board are pending. The chairman of the board
has the power to administer oaths and compel the attendance of witnesses
(SDCL 11-4-15). The board is responsible for giving due notice to all
parties of interest to a pending action under terms stated in the zoning
ordinance. It may be good practice to require that notice be given by
publishing in a newspaper rather than by mail. Court cases have been
lost because parties of interest did not, for one reason or another,
receive the required notice.

State law requires that the municipal board of adjustment keep
minutes of its proceedings showing the vote of each member on each
question and other proceedings. The minutes are a public record (SDCL
11-4-16). While state law does not specifically require that the county
board of adjustment keep such records it is recommended they follow this
practice in the event their actions are questioned.

What is a Variance and What is a Special Exception

The issuance of variances is perhaps the most abused use of zoning
power. A variance is a permit to build without strict observance of the
zoning regulations. Zoning regulations are written to apply to the
general situation. Usually no provisions are made for specific
situations, such as unusual topography which may apply to a particular
parcel of property. The criteria which should be used for the issuance
of a variance is that due to special conditions, usually land features,
strict adherence to the zoning regulations imposes unnecessary hardship
upon the landowner. Even if a hardship is imposed, the application for
a variance should be refused if the granting will materially change the
character of the area.

South Dakota law points out the conditions under which a variance
or special exception may be granted. SDCL 11-6-25 states "...in order
that unwarranted hardship, which constitutes an unreasonable deprivation
of use as distinguished from the mere grant of privilege, may be avoided."
The same wording, for county zoning, appears in SDCL 11-2-25.1. The
board, in considering a request for a variance or special exception
should assure themselves that the hardship is not self-created and that
the hardship is not applicable to the other property in the area (if so,
then change in the zoning ordinance should be considered). The burden of
proof rests upon the applicant.
The board of adjustment must not grant a variance that would permit a use otherwise prohibited in the zoning district. Hardship must involve the way the land is used in terms of required setbacks, side yards, parking and height. A request for permit to open a small auto repair shop in a residential district is not a variance but actually a request for a change in the ordinance.

A well written zoning ordinance or resolution will specify the conditions under which special exceptions will be allowed. If these provisions are not included in the ordinance the special exceptions feature can become a loophole which might conceivably allow any kind of development to occur in any use zone.

A special exception is a permit for the use of property other than the use for which the district is zoned. In practically every use district, it is necessary to allow some land uses which do not conform to the terms of the ordinance. Public utility substations are examples of such uses which might be necessary or desirable. Another example might be a gravel pit in an agricultural area. Obviously minerals must be quarried or mined where they occur. Because these uses are grants of special privilege, in order to preserve the character of the area, the board of adjustment might require that public utility substations and quarries be screened from view. The size, design and placement of signs advertising such uses might also be stipulated in the special exception permit.

Variances and special exceptions are privileges granted by the board and not a right of the landowner. The board has the authority to impose reasonable conditions, not specifically covered in the ordinance, upon the landowner when granting the privilege.

Hearings

State law requires that hearings be held on the comprehensive plan and adjuncts before adoption as well as any subsequent changes in the plan and ordinances. The legal requirements for notice of hearings and filing and publication of the plan, maps and ordinances are contained elsewhere in this publication. The hearing is conducted by the governing body of the city or county. They alone are empowered to act upon the results of the hearing; to adopt the plan or return it to the planning commission for revision.

In most situations the zoning administrator will be responsible for making the arrangements for the public hearing. The following is a checklist of items which should be readily at hand at a public hearing.

1. Copy of the comprehensive plan for the city or county.
2. Land use map.
3. Zoning map.
5. Plat showing land to be rezoned (if a rezoning hearing).
6. Plat showing area may object (if a rezoning hearing).
7. Copy of published notice.
8. Copy of mailed notice and list of recipients (if used).
9. Copy of State laws on planning and zoning.
CHAPTER VI

OTHER TOOLS FOR COMMUNITY DEVELOPMENT

Communities in their efforts to develop the kind of community within which the people want to live have various tools other than zoning at their disposal. Some of these tools might be building and housing codes, plumbing codes, health and sanitary regulations and numerous special purpose districts.

State law provides for the passage of building, housing, plumbing and electrical codes only by municipalities. Special purpose districts are organized by petition and their territories might include both municipalities and rural land depending upon the purpose of the district.

Building Codes

SDCL 9-33-6 states, "Every city shall have the power to provide for the inspection of buildings and the issuance of building permits and fix the fees therefore." Many municipalities have adopted the Uniform Building Code written by the International Conference of Building Inspectors or some modification of this code in preference to writing their own.

Building codes help to protect property values in the community and assure the building of housing safe for occupancy. Building codes also protect the purchaser of housing against unscrupulous builders who might use sub-standard materials and workmanship.

Housing Codes

Housing codes are minimum standards for existing housing. They are controversial and difficult to enforce. Municipalities are reluctant to pass and enforce such ordinances because they largely affect older homes constructed before building codes were enacted. Most cities have a shortage of housing, particularly low income housing.

Housing codes protect the value of adjacent property and provide a means for the community to require the improvement or removal of unsafe housing. Housing codes should be undertaken only after considerable study of local housing conditions and be designed to protect human health and property.

Electrical Codes

Electrical standards in South Dakota are established by the South Dakota Electrical Board. Local electric codes must meet the code adopted by the state board. The State Electrical Board has adopted the National Electric Code. Municipalities may adopt standards equal to or more stringent than the State and National electric codes. Again, the purpose of electric codes is to protect life, health and property.

Copies of the State code may be obtained, for a small fee, from the South Dakota Electrical Board, 125 West Capitol Avenue, Pierre, South Dakota 57501.
Plumbing Codes

South Dakota has a State Plumbing Board. The Board has adopted a state code to which all municipal codes must conform. The State licenses only plumbing contractors of two classes. Class A contractors may employ plumbers for plumbing work for which the contractor is responsible. Class B plumbers are licensed only for the work they do themselves.

Copies of the state plumbing code and additional information may be obtained from the State Plumbing Board, 216 East Capitol Avenue, Pierre, South Dakota 57501.

Health and Sanitary Regulations

All municipalities possess the power to enact a wide range of health and sanitary regulations. Only a few of our larger municipalities have the means to enforce them. For this reason the State Department of Health through their inspection division requires licensing of restaurants and sampling of public water supplies along with a wide range of public health programs. Local regulations might establish standards for communicable disease control, insect and rodent control, public and private water supply, swimming pools, public and private sewage disposal and quality control of perishable foods such as meat, seafood, poultry and eggs, dairy products, and fruits and vegetables. Adequate enforcement of such regulations requires trained personnel and laboratory facilities.

Restrictive Contracts (Covenants)

Sometimes property owners, in order to preserve the character of an area or to foster particular kinds of developments, may place restrictions upon the use of their property before it is sold or otherwise passes beyond their direct control. Under South Dakota law (SDCL 11-5) restrictions on the height, number of stories, size of buildings and the use of the buildings or the land may be placed upon the property for a period, not to exceed 25 years, regardless of who owns the property.

Restrictions must be put in writing and signed (contract). The contract must then be filed with the register of deeds within 30 days. If the property is located inside the corporate limits of a city, within 30 days after filing with the register of deeds, a copy, certified by the register of deeds, must be filed with the city auditor or clerk.

If the terms of the zoning ordinance are more restrictive than the terms of the restrictive contract, the terms of the zoning ordinance will apply (SDCL 11-4-6).

The terms of the contract may be removed before the expiration date only upon the filing of a deed of revocation with the register of deeds (and the city auditor) by the original contractor. If the person who filed the original contract is deceased, a deed of revocation may be filed if signed by all persons having an interest in the property as successors to the person filing the contract. The deed must then be
approved by the governing body of the city where the property is located.

Special Purpose Districts and Units of Local Government

There are provisions in South Dakota for the formation of numerous special purpose districts and units of local government, including townships. Special purpose districts usually (but not always) have the power to impose a limited tax in order to wholly or partially provide the service for which the district is organized. Some of these districts include, conservation, fire control, Resource Conservation and Development, sewer and water and Conservancy Sub-Districts.

The importance of township government has decreased in recent years in most areas of South Dakota, which have organized townships, as a result of the increase in size of farms and the demand for more sophisticated services than townships can provide. There are some notable exceptions. Townships possess the authority to build and maintain roads and provide police and fire protection. Some rural communities with higher population densities have used township government to provide some or all of these services. Townships do not possess the authority to plan and zone. Their most important function has been the maintenance of township roads.

The function of most special purpose districts in South Dakota is well known and will not be discussed with the exception of two recent additions.

Water User Districts

The water user district became important in recent years with the organization of rural water delivery systems. Water user districts are formed by the petition process. Twenty-five percent of the landowners in the proposed district must sign the petition. Water user districts do not possess taxing power nor the power to levy assessments. The district formed does not have the power to require everyone to utilize the service. Support of the district is derived primarily from user charges. A water user district might include a part or all of one or more counties including the municipalities. If municipalities are included, a separate petition bearing the signatures of at least 25% of the landowners in each of the municipalities is required for formation of the district (SDCL 46-16).

Sanitary (Sewer) Districts

No less than 30 legal residents, including children, or 10 qualified voters are required for the incorporation of a sanitary district. Such district must be outside the boundaries of a municipality (SDCL 34-17-2).

Sanitary districts possess the power to construct and operate systems of sanitary and storm sewers and solid waste collection and disposal. Upon a vote of the majority of the voters in the service area a sanitary district may also provide for the distribution of water either through the construction of water service facilities or contract with an adjacent city or other water service supply system.
Sanitary districts possess the power of eminent domain and may levy an assessment upon all property in the district. Such districts may also require all residents in the service area to utilize the service(s) and fix the fees for the service(s) provided.
GLOSSARY

Adjunct - An attachment or part added; as used in the South Dakota Planning and Zoning law it refers to zoning controls, zoning maps, sub-division regulations and any other controls which might accompany a comprehensive plan.

Advisory Group - A number of persons knowledgeable in specific subject matter areas. Advisory groups assist in development of policy and procedures in addition to assisting with the development, analysis and interpretation of data. These groups may be appointed by County Commissioners, Mayor or Planning Commissions.

Base Map - A scale map or aerial photograph used as the basis for illustrating features of land use such as geology, water courses, housing, transportation systems, etc. One system is to use an aerial photograph and develop overlays showing physical features and uses.

Building Codes - A body of legislative regulations or by-laws (usually local) that prescribes the materials, minimum requirements, and methods to be used in the construction, rehabilitation, maintenance, and repair of buildings.

Capitol Improvements Plan - A schedule of spending for non-recurring community improvements over a period of years beyond the next budgetary year.

Community Development - A term embracing all those activities and programs designed to strengthen the physical, social, and economic conditions of an area with a view toward making it a more healthful, prosperous, and gratifying place to live, and in the process to develop the community's capacity to help itself.

Comprehensive Plan - An official document adopted by a local government setting forth its general policies regarding the long-term physical development of a city or other area.

Density - The average number of persons, families, or dwellings per unit of area (acre, square mile, etc.).

Economic Base - The sum of all activities that result in the receipt of income in any form by the inhabitants.

Extra-territorial Jurisdiction - The power of a municipality to plan and zone the area, up to three miles, beyond the city limits.

Goal - A general end result toward which the planning process is aimed. Example: (1) A beautiful place to live; (2) An excellent educational system; (3) Financial security.

Implementation - The process of carrying out the policies contained in the comprehensive plan.
Land Use Controls - Legal or social tools designed to specify the uses which may be made of land. These include fee simple ownership, deed restrictions, easements, zoning, etc.

Land Use Plan - The official formulation of the future uses of land, including the public and private improvements to be made on it and the assumptions and reasons for arriving at the determinations. A land-use plan is not to be confused with the land-use map, which describes how the land and buildings are or have been used; or with the zoning plan, which regulates use, density, coverage, bulk, etc.; or with the master plan of which it is often a part. The land-use plan projects private and public land uses and is usually prepared simultaneously with the highway and street plan. These two plans lay the groundwork for the master plan.

Municipality - An incorporated town or city, having powers of local self-government. Its powers are provided by charter and by state statute. May have one of several forms of government -- commission, council, or board of trustees.

Non-conforming Use - A land use which does not conform to the zoning ordinance but which existed prior to the adoption of the ordinance.

Official Map - Zoning Map - A map or maps showing the various use districts and where future streets and other public improvements are to be located. An official document which includes the written text.

Planned Unit - A land area which (1) has both individual building sites and common property such as a park, and (2) is designed and organized to be capable of satisfactory use and operation as a separate entity without necessarily having the participation of other building sites or other common property; the ownership of the common property may be either public or private.

Planned Unit Development - A planned unit in a city or county constructed as a whole by a developer at his expense according to design standards stated in the zoning ordinance. Built by permit only after extensive negotiation with the planning commission and city or county officials.

Planning Commission - An appointive group of citizens given the task of conducting and overseeing the planning process. If a professional planning staff is employed, the task of the Planning Commission is to act as a policy and review board for the staff.

Plat - A map or chart of a city, town, section, or subdivision, indicating the location and boundaries of individual properties. Plats and platting are an important part of subdivision procedures.

Policy - A guide to action. The "how" of attaining a goal.

Process - A series of actions or operations directed toward accomplishment of a goal.

Projection - A prediction or expectation of future occurrences based upon information about the past and present.
Special District - A local public agency set up for a single purpose, such as building a school, sewer, or water system. The district may float bonds for the improvement, repaying them from assessments or other earmarked revenues. Authority varies by type of district.

Special Exception - A permit to use a particular parcel of land for a purpose not otherwise allowed in a particular zone. The ordinance should state the purposes and conditions under which a special exception may be allowed. Sometimes called a conditional use permit.

Sprawl - "Sprawl" is frequently used to describe much of the land development now taking place at the periphery of expanding urban areas.

Subdivision - The process of dividing a given area of land into sites, blocks, or lots with streets or roads and open spaces; also an area so divided.

Subdivision Regulations - Regulations governing the development of raw land for residential or other purposes. They prescribe standards for street improvements, lot sizes and layouts, procedures for dedicating private land for public purposes and other requirements. Procedures are also given for filing maps; for receiving the approval of the planning commission, and other departments.

Variance - A permit issued by the board of adjustment to a landowner upon application when, in the judgment of the board, strict application of the terms of the ordinance will result in the creation of unnecessary hardship upon the landowner in the use of his property. The hardship should be a result of a feature of the land and be unique to a particular piece of property.

Zone - An area within which the uses of the land are the same or compatible; i.e., single family residence, agricultural, commercial, etc.

Zone, Buffer - A strip established to separate and protect one type of land use from another; for example, as a screen to objectionable noise, smoke, and visual aspects of an industrial zone adjacent to a residential area.

Zone, Floating - A zone which has not been designated a specific location on the official zoning map. Used primarily in providing for future mobile home and industrial parks. The concept may also be applied to other zones.

Zoning - Zoning is a legal technique for guiding future orderly growth of a community, county or region, by regulating and restricting the use of land, buildings and structures for trade, industry, residence or other purposes.

Zoning Permit - An official finding that a planned use or structure complies with the zoning regulations or is allowed by the granting of an exception or variance. No new development or substantial change of use can occur until such a permit is issued.
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APPLICATION
For Permit to Build or for Zoning Purposes

City of Volga,
South Dakota

The following are zoning restrictions for each of four districts, A, B, C, D

For further information contact a member of the zoning commission or the city auditor.

Application of

DO NOT WRITE IN THIS SPACE

Received this ________ day of ---------- - ---------- - --------, 19 _____ , at __________ A.M. P.M.
Received by ______________________________________________________________ -, City Auditor.
Action of Zoning Board
Action of City Council
Approved by
Date Approved
Permit Number Issued
Issued by ______________________________________________________________-, City Auditor.
APPLICATION FOR BUILDING PERMIT

I, ____________________________________________, pursuant to Chapter 22.12 of Ordinance No. 126, City of Volga, South Dakota, do hereby apply for a permit to:

☐ relocate  ☐ move  ☐ construct  ☐ extend  ☐ alter
☐ erect  ☐ enlarge  ☐ convert  ☐ reconstruct  ☐ raze

a structure on lot or lots number __________________________ of ____________________________________

(Give legal description)

for the purpose of __________________________ (State nature of work to be done)

The structure is to be used for: ( ) single family dwelling, ( ) duplex, ( ) multi-family dwelling, ( ) commercial, ( ) industrial. Describe use if commercial or industrial. ____________________________________

Dimension of structure. ____________________________________ (Width, length and height)

Type of construction: ( ) frame, ( ) brick, ( ) stucco, ( ) concrete, ( ) concrete block. State if there is any variation or combination of above. ____________________________________

Estimated cost of proposed structure. $______________

STATEMENT OF CONFORMITY

I do hereby declare and affirm that all work will be done in conformity to the facts stated in the application and that all work will conform with the zoning and building ordinances of the City of Volga, and the laws of the State of South Dakota.

Witness to applicant's signature. (Signed) ____________________________________________

Applicant

__________________________________________

(Page 2 Volga Application)
Size, shape and location of structure in relation to lot or lots.
(Assign print or show below plans showing location on lot or lots and indicate proposed set-back lines.)

<table>
<thead>
<tr>
<th>CLASS “A” DISTRICT</th>
<th>CLASS “B” DISTRICT</th>
<th>CLASS “C” DISTRICT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single and two-family dwellings</td>
<td>Any use permitted in Class “A”</td>
<td>Sales and show rooms</td>
</tr>
<tr>
<td>Educational buildings</td>
<td>Apartment houses and multiple dwellings</td>
<td>Stores and retail business shops</td>
</tr>
<tr>
<td>Church</td>
<td>Boarding and lodging houses</td>
<td>Financial institutions</td>
</tr>
<tr>
<td>Farms, truck gardens, horticulture and nursery</td>
<td>Hotels and dormitories</td>
<td>Filling stations</td>
</tr>
<tr>
<td>Home occupation</td>
<td>Private clubs, fraternities, sororities</td>
<td>Food storage lockers</td>
</tr>
<tr>
<td>Hospital</td>
<td></td>
<td>Garages</td>
</tr>
<tr>
<td>Park and playground</td>
<td></td>
<td>Greenhouses</td>
</tr>
<tr>
<td>Library</td>
<td></td>
<td>Hatchery</td>
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<tr>
<td>Schools</td>
<td></td>
<td>Hospital</td>
</tr>
<tr>
<td>Railroad track</td>
<td></td>
<td>Key shop</td>
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<tr>
<td></td>
<td></td>
<td>Medical and Dental offices</td>
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<tr>
<td></td>
<td></td>
<td>Telephone and Telegraph offices</td>
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<tr>
<td></td>
<td></td>
<td>Tire sales and services</td>
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<tr>
<td></td>
<td></td>
<td>Undertaking establishments</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Upholstery shops</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Welding shops</td>
</tr>
</tbody>
</table>

Any use permitted in Class “A” and “B”

Advertising signs and billboards
Bakery and food processing
Barber, beauty, chiropody, massage
Bowling alleys
Cabinet shops
Creamery
Dressmaking, shoe repairing, millinery
Dry-cleaning
Motel
Offices
Photograph studios
Plumbing, furnace and sheet metal
Poolhall
Printing shop and newspaper
Restaurant and lunchroom

Any use permitted in Class “A”, “B” or “C” districts

Abattoir
Produce house and processing plants
Automobile wrecking and salvage yards
Bottle works
Factories
Feed mills
Gasoline storages
Grain elevators
Grain and seed processing
Junk yards
Lumber and coal yards
Stockyards
Warehouses

Wholesale houses
Zone ordinance map depicts areas for City of Volga

Map Legend
A—1 and 2 family residential
B—1, 2 and multiple family residential
C—Commercial
D—Industrial
MINNEHAHA COUNTY, SOUTH DAKOTA
APPLICATION FOR
BOARD OF ADJUSTMENT HEARING

Appeal to the Board of Adjustment for Public Hearing - Date ________________________

Name of Appellant ____________________________________________________________

Address __________________________________ Phone No. ________________________

Variance or Aggrievance __________________________________________________________

Fee - $ _______ Paid _______ Not Paid _______ Date ________________________

Building Inspector

Date of Hearing ______________________________________________________________

Action of Board of Adjustment __________________________________________________

Request Approved _______ Denied _______ Date ________________________

Chairman of Board of Adjustment

59
MINNEHAHA COUNTY, SOUTH DAKOTA
PETITION FOR ZONING AMENDMENT

No. __________________________

Name of Petitioner __________________________________________

Address _____________________________________________________ Phone No. __________________

Petition to Amend:  Zoning District Boundaries ___________________
                      Zoning District Regulations __________________

Reason for requested amendment: _______________________________

Location of Property (address) _________________________________

Subdivision __________________ Block ______ Lot ____________

Legal description of property: _________________________________

Present Zone District __________________ Proposed Zone District ______________

Property owners located within 100 feet of subject property: (Name and address - See attached list and sketch)

Fee: $ ____________ Paid ________ Not Paid ______________

Signature of Petitioner ________________________________

Signature of Property Owner ____________________________ Building Inspector

Hearing Date Scheduled ____________________ Legal notice published date ____________

Recommendations of Planning Commission: Approval __________ Denial __________
(Reasons Attached) Date ____________________________

Recommendation of County Commission: Approval __________ Denial __________
(Reasons Attached) Date ____________________________
BUILDING PERMIT

ISSUED BY
MINNEHAHA COUNTY,
SOUTH DAKOTA

Date ________________________

Permit Number ________________________

Zoned ________________________

PERMIT ISSUED TO:

Name ________________________

Address ________________________ Phone ________________________

Owner: ________________________ Contractor: ________________________

FOR CONSTRUCTION OF: ________________________

Located: ________________________

Subdivision ________________________ Block No. ________________________ Lot No. ________________________

Notify Building Inspector's Office (Court House) 336-2350 - Ext. 77

INSPECTIONS REQUIRED FOR RESIDENCE AND NON-FARM BUILDINGS:

1. SPACING & FOOTINGS: To be made after trenches are excavated and footing forms erected.
   Date Inspected ________________________

2. FRAME INSPECTION: To be made after the roof, all framing, fireblocking and bracing are in place, and all pipes, chimneys and vents are complete. Date Inspected ________________________

3. SEWAGE AND PLUMBING: Septic tanks and drainfield must be inspected before covering. Inspection of Plumbing may be combined with Framing Inspection. Date Inspected ________________________

4. FINAL INSPECTION: NO RESIDENCE OR NON-FARM BUILDING SHALL BE OCCUPIED UNTIL OCCUPANCY PERMIT HAS BEEN ISSUED AFTER FINAL INSPECTION. Date Inspected ________________________

   Electrical wiring must be approved by a S. D. Electrical Inspector.

Building Inspector

61
APPLICATION FOR BUILDING PERMIT

HAMLIN COUNTY, SOUTH DAKOTA

Applicant __________________________________________________________

Address __________________________________________________________

Contractor _________________________________________________________

Address __________________________________________________________

Location of Property: ____________________________________________

Legal Description: _______________________________________________

NOTE: Fill in the following information as accurately and completely as possible. Indicate below by scale drawing the shape and dimensions of the lot, location of roads, streets or alleys, shape and dimensions of all existing and proposed buildings and distances from buildings to lot lines. Location of water source and sewage disposal areas, including those on neighboring lots also must be shown. Use "NA" in all cases for "not applicable".

Application is for (circle one) Demolition and Moving New Construction Alteration Change in Use

   N

W E
<table>
<thead>
<tr>
<th>Description</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Zoning District in which lot is located</td>
<td></td>
</tr>
<tr>
<td>Lot Width</td>
<td></td>
</tr>
<tr>
<td>Proposed Use</td>
<td></td>
</tr>
<tr>
<td>Lot Depth</td>
<td></td>
</tr>
<tr>
<td>No. Of Families, Dwellings, or Rooms</td>
<td></td>
</tr>
<tr>
<td>Lot Area per family</td>
<td></td>
</tr>
<tr>
<td>Type of Lot (corner or interior)</td>
<td></td>
</tr>
<tr>
<td>Front footage</td>
<td></td>
</tr>
<tr>
<td>Does Lot front on Public or Private street or road</td>
<td></td>
</tr>
<tr>
<td>Rear footage</td>
<td></td>
</tr>
<tr>
<td>No. of Off-street Parking Spaces</td>
<td></td>
</tr>
<tr>
<td>Location</td>
<td></td>
</tr>
<tr>
<td>No. of Off-street Loading Spaces</td>
<td></td>
</tr>
<tr>
<td>No. of stories</td>
<td></td>
</tr>
<tr>
<td>Height of building</td>
<td></td>
</tr>
</tbody>
</table>

The above information is, to the best of my knowledge, true and accurate. It is understood and agreed that any error, misstatement or misrepresentation of fact, either with or without intention on my part, such as might it known, cause refusal of this application, or any alteration or change in plans made without the approval of the County Zoning Officer subsequent to the issuance of the building permit, shall constitute sufficient grounds for the revocation of such permit.

Date: ___________________  Signed: ___________________

Applicant or Representative

Application Approved: ___________________  Application Disapproved: ___________________

Date: ___________________  Date: ___________________

Reason for Disapproval: ___________________

Fee Paid in Amount of $ ___________________

Treasurer: ___________________

Date issued: ___________________  Expiration Date: ___________________

Signed: ___________________

County Zoning Officer

Inspection Date & Time: ___________________
**MINNEHAHA COUNTY, SOUTH DAKOTA**
**BUILDING PERMIT APPLICATION**

**IMPORTANT** - Complete ALL items. Mark boxes where applicable.

<table>
<thead>
<tr>
<th>I. LOCATION OF BUILDING</th>
<th>Number and street</th>
<th>Subdivision</th>
<th>Lot</th>
<th>Block</th>
<th>Census tract</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>II. TYPE AND COST OF BUILDING - All applicants complete Parts A – D</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. TYPE OF IMPROVEMENT (Enter number in box for type of improvement)</td>
</tr>
<tr>
<td>1. New building</td>
</tr>
<tr>
<td>2. Addition (If residential, enter number of new housing units added, if any, in Part D, 13)</td>
</tr>
<tr>
<td>3. Alteration (See 2 above)</td>
</tr>
<tr>
<td>4. Repair, replacement</td>
</tr>
<tr>
<td>5. Wrecking (If multifamily residential, enter number of units in building in Part D, 13)</td>
</tr>
<tr>
<td>6. Moving (relocation)</td>
</tr>
<tr>
<td>7. Foundation only</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B. OWNERSHIP</th>
</tr>
</thead>
<tbody>
<tr>
<td>8. Private (individual, corporation, nonprofit institution, etc.)</td>
</tr>
<tr>
<td>9. Public (Federal, State, or local government)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>C. COST</th>
</tr>
</thead>
<tbody>
<tr>
<td>10. Cost of improvement ( \text{$} )</td>
</tr>
<tr>
<td>( \text{To be installed but not included in the above cost} )</td>
</tr>
<tr>
<td>a. Electrical ( \text{$} )</td>
</tr>
<tr>
<td>b. Plumbing ( \text{$} )</td>
</tr>
<tr>
<td>c. Heating, air conditioning ( \text{$} )</td>
</tr>
<tr>
<td>d. Other (elevator, etc.) ( \text{$} )</td>
</tr>
<tr>
<td>11. TOTAL COST OF IMPROVEMENT ( \text{$} )</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>D. PROPOSED USE - For “Wrecking” most recent use</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
</tr>
<tr>
<td>12. One family</td>
</tr>
<tr>
<td>13. Two or more family – Enter number of units</td>
</tr>
<tr>
<td>Nonresidential</td>
</tr>
<tr>
<td>14. Transient hotel, motel, or dormitory – Enter number of units</td>
</tr>
<tr>
<td>15. Garage</td>
</tr>
<tr>
<td>16. Carport</td>
</tr>
<tr>
<td>17. Other – Specify</td>
</tr>
</tbody>
</table>

**Nonresidential – Describe in detail proposed use of buildings, e.g., food processing plant, machine shop, laundry building at hospital, elementary school, secondary school, college, parochial school, parking garage for department store, rental office building, office building at industrial plant. If use of existing building is being changed, enter proposed use.**
### III. SELECTED CHARACTERISTICS OF BUILDING

For new buildings and additions, complete Parts E - L; for wrecking, complete only Part J, for all others skip to IV.

#### E. PRINCIPAL TYPE OF FRAME
- Masonry (wall bearing)
- Wood frame
- Structural steel
- Reinforced concrete
- Other - Specify ________

#### G. TYPE OF SEWAGE DISPOSAL
- Public or private company
- Individual (septic tank, etc.)

#### J. DIMENSIONS
- 48. Number of stories ________
- 49. Total square feet of floor area, all floors, based on exterior dimensions ________
- 50. Total land area, sq. ft. ________

#### H. TYPE OF WATER SUPPLY
- Public or private company
- Individual (well, cistern)

#### I. TYPE OF MECHANICAL
- Will there be central air conditioning?
  - Yes
  - No
- Will there be an elevator?
  - Yes
  - No

#### F. PRINCIPAL TYPE OF HEATING FUEL
- Gas
- Oil
- Electricity
- Coal
- Other - Specify ________

#### L. RESIDENTIAL BUILDINGS ONLY
- 53. Number of bedrooms ________
- 54. Number of bathrooms ________

#### IV. IDENTIFICATION

<table>
<thead>
<tr>
<th>Name</th>
<th>Mailing address - Number, street, city, and State</th>
<th>ZIP code</th>
<th>Tel. No.</th>
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</thead>
<tbody>
<tr>
<td>1. Owner</td>
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<td>2. Contractor</td>
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<tr>
<td>3. Architect</td>
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</tbody>
</table>

The owner of this building and the undersigned agree to conform to all applicable laws of (name of permit jurisdiction).

Signature of applicant Address Application date

**DO NOT WRITE IN THIS SPACE - FOR OFFICE USE**

<table>
<thead>
<tr>
<th>Approved by</th>
<th>Permit fee</th>
<th>Date permit issued</th>
<th>Permit number</th>
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