

# **ZONING ORDINANCE**

## **CITY OF COLMAN, SOUTH DAKOTA**

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**ORDINANCE NO. 152**

AN ORDINANCE ESTABLISHING ZONING REGULATIONS FOR THE CITY OF COLMAN, SOUTH DAKOTA, AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT, AND AMMENDMENT THEREOF, IN ACCORDANCE WITH THE PROVISIONS OF CHAPTERS 11-4 AND 11-6. 1967 SDCL, AND AMENDMENTS THEREOF, AND FOR THE REPEAL OF ALL ORDINANCES IN COMPLICT HEREWITH

WHEREAS, Chapters 11-4 and 11-6, 1967 SDCL, empower the City of Colman, hereinafter referred to as the City, to enact a zoning ordinance for all land within the corporate limits of the City and to provide for its administration, enforcement, and amendment, and

WHEREAS, the Colman City Council, hereinafter referred to as the City Council, deems it necessary for the purpose of promoting the health, safety, morals, and general welfare of the City to enact such an ordinance, and

WHEREAS the City Council has appointed a Planning and Zoning Commission to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein, and

WHEREAS, the Planning and Zoning Commission has divided the City into districts an has prepared regulations pertaining to such districts in accordance with a comprehensive plan and in such manner as to lessen congestion in the streets, to secure safety from fire, panic, and other dangers; to promote the health and the general welfare; to provide adequate light and air to prevent overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewage, schools, parks, and other public requirements; and

WHEREAS, the Planning and Zoning Commission has given reasonable consideration among other things, to the character of districts and their peculiar suitability for particular uses, with a view to conserving the value of buildings, and encouraging the most appropriate use of land throughout the municipality, and

WHEREAS, the Planning and Zoning Commission has made a preliminary report and held public hearings thereon, and submitted its final report to the City Council, and

WHEREAS, the City Council has given due public notice of hearings relating to zoning districts, regulations, and restrictions; and has held such public hearing, and

WHEREAS, all requirements of Chapters 11-4 and 11-6, 1967 SDCL, with regard to the preparation of the report of the Planning and Zoning Commission and subsequent action of the City Council have been met;

**NOW, THEREFORE, BE IT ORDAINED BY THE PEOPLE OF THE CITY:**

<b>Mayor</b>	<b>Date</b>	<b>Attest</b>	<b>Date</b>
			<b>Finance Officer</b>

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## TITLE 12 – ZONING

### ARTICLE 1 GENERAL PROVISIONS

#### CHAPTER 1.01 TITLE AND APPLICATION

##### Section 12.1.01.01 Title

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

##### Section 12.01.02 Jurisdiction.

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

##### Section 12.1.01.03 Purpose and Intent.

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

This ordinance has been prepared in accordance with the Comprehensive Land Use Plan for the City and is designed to coordinate physical development of the community with needs for public services and facilities.

#### CHAPTER 12.01.02 ORDINANCE PROVISIONS

##### Section 12.1.02.01 Provisions of Ordinance Declared to Be Minimum Requirements.

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

##### Section 12.1.02.02 Violations/Penalties for Violation.

In case any building or structure is erected, constructed, reconstructed, altered, converted, or any building or structure or land is used in violation of this Ordinance or other regulation or resolution of the City Council made under authority conferred, hereby the Administrative Official, or the City of Colman, as corporation or any interested person, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent

the occupancy of said building or land or to prevent any illegal act, conduct, business, or use in and to and of such premises.

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violations of conditions and safeguards established in the granting of Variance or Special Exceptions, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than two hundred (\$200), and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. The owner or tenant of any building, structure, premises, or part thereof, any architect, builder contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each found guilty of a separate offense and suffer the penalties herein provided. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

**Section 12.1.02.03 Separability Clause.**

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

**Section 12.1.02.04 Repeal of Conflicting Ordinances.**

All prior ordinances or parts of prior ordinances in conflict with this ordinance are hereby declared repealed in particular the previous Title 12 is repealed entirely.

**Section 12.1.02.05 Effective Date.**

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

**CHAPTER 12.1.03. OFFICIAL ZONING MAP**

**Section 12.1.03.01 Official Zoning Map.**

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

The Official Zoning Map shall be identified by the signature of the Mayor of the City attested by the Finance Officer under the following words:”This is to certify that this is the Official Zoning Map referred to in Chapter 12.1.03 of Ordinance Number 152 of the City of Colman, State of South Dakota.” together with the date of the adoption of this Ordinance.

If, in accordance with the provisions of this Ordinance and Chapter 11-4, as amended changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall not become effective until after said changes have been made on the Official Zoning Map by the Finance Officer or in his/her absence a person designated by the City Council. An unauthorized change by any person or persons shall be considered a violation of this Ordinance and punishable as provided under Chapter 12.1.02 Section 12.1.02.02.

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

**Section 12.1.03.02 Rules Where Map Designation Uncertain.**

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

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

**Section 12.1.03.03 Annexation.**

Subsequent of the effective date of these regulations, any land annexed into the municipal boundaries of the City of Colman shall be automatically placed into the "A" Agricultural zoning district, unless and until such time as the area is rezoned by amendment of these regulations by ordinance, as provided for in Chapter 12.3.04. Section 12.3.04.07 of these regulations.

**Section 12.1.03.04 Changes and/or Replacement of Official Zoning Map.**

In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the City Council may by resolution adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the Original Official Zoning Map shall be identified by the signature of Mayor attested by the Municipal Finance Officer, and bearing the seal of the City under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of

adoption of map being replaced) as part of the Zoning Ordinance of the City of Colman, State of South Dakota.”

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

Changes to the Official Zoning Map shall require amendment of this regulation by ordinance, as provided for in Chapter 12.3.04, Section 12.3.04.07 of these regulations.

## **ARTICLE 11 DISTRICT REGULATIONS**

### **CHAPTER 12.2.01 APPLICATION OF DISTRICT REGULATIONS**

#### **Section 12.2.01.01 Applicability of Regulations.**

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

#### **Section 12.2.01.02 Compliance: Generally.**

No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all regulations herein specified for the district in which it is located.

#### **Section 12.2.01.03 Structures & Lots: Construction or Alteration: Limitations of.**

No building or other structure shall hereafter be erected or altered:

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

## **CHAPTER 12.2.02 NON-CONFORMING USES**

### **Section 12.2.02.01 Intent.**

Within the districts established by this ordinance or amendments that may later be adopted there exist:

- Lots
- Structures
- Uses of land and structures, and
- Characteristics of use

Which were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendment. It is the intent of this Ordinance to permit these non-conformities to continue until they are removed, but not to encourage their survival. It is further the intent of this Ordinance that non-conformities shall no be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

Non-conforming uses are declared by this Ordinance to be incompatible with permitted uses in districts involved. A non-conforming use of a structure, a non-conforming use of land or a nonconforming use of structure and land in combination shall not be extended or enlarged after passage of this ordinance by the addition of other uses, or a nature which would be prohibited in the district involved.

To avoid undue hardship, nothing in this ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this ordinance.

And upon which construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided the work shall be carried on diligently.

### **Section 12.2.02.02 Repairs and Maintenance**

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

repairs and maintenance, and is declared by a duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located.

Nothing in this ordinance shall be deemed to prevent strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by an official charged with protecting the public safety, upon order of such official.

**Section 12.2.02.03 Uses and Structures.**

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

1. If no structural alternations are made a nonconforming use or structure may be changed to another nonconforming use or structure of the same or more restricted zoning district.
2. Whenever, a nonconforming use or structure has been changed to a more restricted or conforming use, it shall not be changed back to a less restricted use.
3. Should any nonconforming use or structure be destroyed by any means to the extent of a decrease in the current fair market value to less than fifty (50) percent of the assessed value thereof, such nonconforming use shall not continue.
4. When a nonconforming use or structure is discontinued for a period of 1 year, it shall not be continued unless in conformance with the requirements of this ordinance and SDCL 11-6-39.
5. Any nonconforming use may be extended throughout any part of a structure which was arranged or designed for such use previous to the adoption of this ordinance, but shall not be extended outside such structure.
6. No existing nonconforming use or structure shall be enlarged, moved, or structurally altered except to change to a permitted use. This is not to include normal repairs and maintenance which do not enlarge, move or structurally alter a nonconforming use.

**Section 12.2.02.04 Uses Under Special Exception Provisions Not Non-Conforming Uses.**

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

**Section 12.2.02.05 Non-conforming Lots of Record.**

In any district in which single-family dwellings are permitted, a single-family dwelling and

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

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

### **CHAPTER 12.2.03 DISTRICT REGULATIONS**

#### **Section 12.2.03.01 Generally.**

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

Any use or uses not expressly permitted in a particular district shall be prohibited, unless such uses are existing at the effective date of these regulations and qualify as nonconforming uses, or unless a Special Exception Permit is granted as provided for in Chapter 12.3.04, Section 12.3.04.04 of these regulations.

Deviation from zoning district lot, yard and related requirements, and deviation from city-wide zoning regulations, shall be prohibited a Special Exception Permit is granted as provided for in Chapter 12.3.04, Section 12.3.04.04 of these regulations.

Additional requirements and standards for uses and structures permitted by Special Exception Permit may be established by the Board of Adjustment as conditions to said Special Exception Permit.

#### **Section 12.2.03.02 Zoning Districts.**

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

- A. “A” Agricultural District.

The intent of the “A” Agricultural District is to protect agricultural land and uses from incompatible land uses and to limit residential, commercial and industrial uses to those areas where they are best suited by reason of their requirements for public services and sound development.

B. “C!” Central Commercial District.

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

C. “FP” Flood Plain District.

The purpose of the FP Flood Plain District is to protect from encroachment watershed areas subject to flooding, backwater spreading, and floodwater or overflow of streams or rivers.

D. “HC” Highway Commercial District.

The Purpose of the “HC” Highway Commercial District is to accommodate industrial uses able to meet performance standards and those commercial uses not compatible with the Central Commercial District.

E. “I” Industrial District.

The purpose of the “I” Industrial District is to provide space for a wide range of industrial uses and structures, and for certain commercial uses. Regulations are intended to provide guidelines for locating activities which may be injurious or offensive to occupants of adjacent areas, or which emit odors, fumes or gases, dust, smoke, noise, or vibrations which are evident beyond the property of such uses.

F. “PUD” Planned Unit Development District

The Purpose of the “PUD” Planned Unit Development District is to permit great flexibility in the use and design of structures and land in situations where modifications of specific provisions of this Ordinance will not be contrary to its intent and purpose or significantly inconsistent with planning on which it is based and will not be harmful to the neighborhood in which they occur.

G. “R2” Single Family Residential District.

The purpose of the “R1” Single Family Residential District is to provide locations for dwellings. Restrictions and requirements are intended to preserve and protect the residential character by preventing incompatible uses and

H. “R2” General Residential District.

The purpose of the “R2” General Residential District is to provide a stable environment for the development of two-family and multiple family dwelling units free from incompatible land uses.

I. “R3” Manufactured Home Residential District.

The purpose of the “R3” Manufactured Home Residential District is to permit the development of a single-family residential manufactured home park located in an appropriate environment. It is the purpose of the “R3” District to encourage site development in accordance with good planning principals; to prevent detrimental effects to the use or development of adjacent properties or the general neighborhood; and to promote health, safety and welfare of the present and future inhabitants of the City.

**CHAPTER 12.2.04. “A”- AGRICULTURAL DISTRICT**

**Section 12.2/04.01. Intent.**

The intent of the “A” Agricultural District is to protect agricultural land and uses from incompatible land uses and to limit residential, commercial and industrial uses to those areas where they are best suited by reason of their requirements for public services and sound development.

**Section 12.2.04.02. Permitted Uses.**

The following uses and structures shall be permitted in the “A” District.

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

**Section 12.2.04.03. Permitted Accessory Uses:**

The following accessory uses and structures shall be permitted in the “A” District:

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

**Section. 12.2.04.04 Special Exceptions:**

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

1. Type 11 manufactured homes
2. Airports;
3. Cemeteries;
4. Commercial or private recreation areas or developments such as golf courses, campgrounds, drive-in-theaters, riding stables, race tracks, swimming pools, etc;
5. Extraction of sand, gravel, minerals and petroleum or natural gas;
6. Public buildings or facilities erected or established and operated by any governmental agency;
7. Radio and television towers and transmitters; and
8. Animal sales/auction yards or barns
9. Home occupations;
10. Utility substations;

**Section 12.2,04.05. Prohibited Uses:**

All uses and structures not specifically permitted or not permitted by special exception shall be prohibited in the “A” District.

**Section 12.2,04.06 Area Regulations.**

1. **Minimum Lot Requirements** – The minimum lot area for residences shall be one (1) acre or 43,560 square feet. The minimum lot width for residences shall be one hundred fifty (150) feet. Uses permitted by special exception shall have a minimum lot area and width as determined by the Board of Adjustment.
2. **Minimum Yard Requirements** – Permitted uses shall have a minimum front yard of seventy-five (75) feet, minimum side yards of thirty (30) feet, and minimum rear yard of fifty (50) feet. Uses permitted by special exception shall have minimum yard requirements as determined by the Board of Adjustment.
3. **Height Regulations:**

**Single Family Dwellings**-Two and one-half (2 ½) stories, excluding basement, or thirty-five (35) feet.

**Other Allowable Uses**-Seventy-five(75) feet for towers or steeples and not more than forty-five (45) feet for the principal building.

## **CHAPTER 12.2.05 “R1” SINGLE FAMILY RESIDENTIAL DISTRICT**

### **Section 12.2.05.01 Intent.**

The intent of this district is to provide locations for site-built single family dwellings. Restrictions and requirements are intended to preserve and protect the residential character by preventing incompatible uses and facilities.

### **Section 12.2.05.02 Permitted Uses:**

The following uses and structures shall be permitted in the “R1” District:

1. Site-built single family dwellings
2. Modular homes
3. Public and parochial schools;
4. Public park and recreation areas;
5. Public buildings or facilities erected or established and operated by any governmental agency;

### **Section 12.2.05.03. Permitted Accessory Uses:**

The following accessory uses and structures shall be permitted in the “R1” .

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

### **Section 12.2.05.04 Special Exceptions:**

The following uses may be permitted as a special exception in the “R1” District by the Board of Adjustment, subject to such requirements as the Board deems necessary to protect adjacent property, prevent objectionable or offensive conditions and promote the health, safety and general welfare.

1. Lodging/Boarding house or Bed and Breakfast establishments;
2. Utility substations;

3. Home occupations;
4. Churches;

**Section 12.2.05.05. Prohibited Uses:**

All uses and structures not specifically permitted or not permitted by special exception shall be prohibited in the “R1” District.

**Section 12.2.05.06 Area Regulations.**

1. **Minimum Lot Requirements:** The minimum lot area for residences shall be nine thousand (9000) square feet. The minimum lot width for residences shall be seventy-five (75) feet. Uses permitted by special exception shall have a minimum lot area and width determined by the Board of Adjustment.
2. **Maximum Lot Coverage:** The maximum lot coverage for all buildings and structures shall not exceed thirty percent (30%) of the total area.
3. **Maximum Yard Requirements:** Permitted uses shall have a minimum front yard of twenty (20) feet, minimum side yards of seven (7) feet, and minimum rear yard of ten (10) feet. Uses permitted by special exception shall have minimum yard requirements as determined by the Board of Adjustment.
4. **Height Regulations:**

**Single Family Dwellings** – Two and one-half (2 ½) stories, excluding basement, or thirty-five (35) feet.

**Other Allowable Uses**- Seventy-five(75) feet for towers or steeples and not more than forty-five (45) feet for the principal building.

**CHAPTER 12.06 “R2” GENERAL RESIDENTIAL DISTRICT**

**Section 12.2.06.01. Intent.**

The intent of the “R2” General Residential District is to provide a stable environment for the development of two-family and multiple family dwelling units free from incompatible land uses.

**Section 12.2.06.02. Permitted Uses**

The following uses and structures shall be permitted in the “R2” District:

1. Any permitted use in the “R1” District;

2. Multiple-family dwellings (i.e. apartment buildings, town houses, and group row houses);
3. Type 1 manufactured homes;
4. Two-family dwellings;

**Section 12.2.06.03. Permitted Accessory Uses:**

The following accessory uses and structures shall be permitted in the “R2” District:

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

**Section 12.2.06.04. Special Exceptions:**

The following uses may be permitted as a special exception in the “R2” District by the Board of Adjustment, subject to such requirements, as the Board deems necessary to protect adjacent property, prevent objectionable or offensive conditions and promote the health, safety and general welfare.

1. Convalescent, nursing and rest homes;
2. Lodging/Boarding houses or Bed and Breakfast establishments;
3. Hospitals;
4. Utility substations;
5. Home occupations.

**Section 12.2.06.05. Prohibited Uses:**

All uses and structures not specifically permitted or not permitted by special exception shall be prohibited in the “R2” District.

**Section 12.2.06.05, Area Regulations.**

1. **Minimum Lot Requirements:**The minimum lot area for single family residences shall be nine thousand (9000) square feet. The minimum lot width for residences shall be seventy-five (75) feet. The minimum lot area for multiple family dwellings, shall not be less than five thousand (5000) square feet per dwelling unit and the minimum lot width shall be not less than seventy-five (75) feet. Uses permitted by special exception shall have a minimum lot area and width determined by the Board of Adjustment.
2. **Maximum Lot Coverage:** The maximum lot coverage for all buildings and structures shall

not exceed thirty percent (30%) of the total area.

- 3. Minimum Yard Requirements:** Permitted uses shall have a minimum front yard of twenty-five (25) feet, minimum side yards of seven (7) feet, and a minimum rear yard of ten (10) feet. Uses permitted by special exception shall have a minimum yard requirements as determined by the Board of Adjustment.

- 4. Height Regulations:**

**Single Family Dwellings-** Two and one-half (2 ½) stories, excluding basement, or thirty (30) feet.

**Churches, Schools and Other Allowable Uses-** Seventy-five (75) feet for towers or steeples and not more than forty-five (45) feet for the principal building.

## **CHAPTER 12.2.07 “R3” MANUFACTURED HOME RESIDENTIAL DISTRICT**

### **Section 12.2.07.01. Intent**

The purpose of the “R3” Manufactured Home Residential District is to permit the development of a single-family residential manufactured home park located in an appropriate environment. It is the purpose of the “R3” District to encourage site development in accordance with good principals; to prevent detrimental effects to the use or development of adjacent properties or the general neighborhood; and to promote the health, safety and welfare of the present and future inhabitants of the City.

### **Section 12.2.07.02. Permitted Uses:**

The following uses and structures shall be permitted:

1. Manufactured home park developments;
2. Manufactured home subdivisions;
3. Any permitted use in the “R2” District;
4. Type 11 manufactured homes.

### **Section 12.2.07.03. Permitted Accessory Uses:**

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

### **Section 12.2.07.04 Prohibited Uses:**

All uses and structures not specifically permitted or not permitted by special exception shall be prohibited in the “R3” District.

**Section 12.2.07.04. Manufactured Home Park Minimum Standards.**

Manufactured home parks shall meet the following minimum standards:

**1. Streets**

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

**2. Open Space or Buffer Zone.**

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

**3. Lot Area.**

Each lot provided for the occupancy of a single manufactured home unit shall be not less than fifty feet in width and have an area of not less than five thousand five hundred (5500) square feet, and the same shall be defined by markers at each corner.

**4. Density.**

No park shall be permitted an average density of manufactured home lots of more than eight (8) units per acre and each park shall provide an area of not less than three (3) acres.

**5. Spacing and Yard Requirements.**

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

**a. Front Yard.**

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

**b. Side and Rear Yards.**

All manufactured homes shall have a minimum side yards of seven (7) feet and a minimum rear yard of ten (10) feet.

**c. Exceptions to minimum yard requirements**

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

A deck may project into a required side or rear yard provided it is located no closer than four feet to any structure.

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

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

**d. Maximum Lot Coverage:**

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

**6. Parking**

Two (2) off-street automobile parking spaces shall be provided for each manufactured home. Such off-street parking spaces shall be set aside in a location convenient to the occupants of the trailer or camping units and shall have ingress and egress by means of a public way.

Where parking areas are provided adjacent to a public street, ingress and egress thereto shall be made accessible only through driveways or openings not exceeding twenty-five (25) feet in the curb line of said street.

**7. Refuse Collection**

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

**8. Recreation Area**

The developer of the manufactured home park shall dedicate No less than 8 percent of the gross site area shall to recreational facilities appropriate to the needs of the occupants. The designated recreation area shall approved by the Planning and Zoning Commission.

**9. Storm Shelter**

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

**10. On-Site management**

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

**11. Water Supply and Distribution System and Sewage Disposl:**

Each manufactured home shall be connected to the City sewer and water system.

**12. Tie down Requirements**

All manufactured homes, regardless of location, unless such manufactured homes are securely anchored to a permanent foundation approved by the Administrative Official, shall be anchored to the ground, in accordance with the manufacturer's specifications or as prescribed by the TR-75, issued June 1972, by the U. S. Department of Defense.

**13. Maximum Age Limitations:**

No manufactured home placed within a manufactured home park with the City limits of Colman may exceed ten years from the date of manufacture.

**14. Expansion.**

Existing manufactured home parks may be extended to a total area of less than three (3) acres provided the area of expansion complies with all the other regulations herein set forth.

**15. Buildings/Moved-in Buildings Permit Required**

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

**16. Skirting**

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

**Section 12.2.07.06. Application Procedure:**

Each application for a “R3” Manufactured Home Park shall be accompanied by a development plan incorporating the regulations established herein. The plan shall be drawn to scale and indicate the following:

The following requirements pertain to manufactured home parks:

1. Location and topography of the proposed manufactured home park, including adjacent property owners and proximity to Federal and State highways, and County, Township, and City roads/streets;
2. Property lines and square footage of the proposed park;
3. Location and dimensions of all easements and right-of-ways;
4. Proposed general lay-out, including parking and recreation areas;
5. General street and pedestrian walkway plan;
6. General utility, water, and sewer plan.

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

**Section 12.2.07.07 Manufactured Housing Subdivisions.**

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

**CHAPTER 12.2.08 “C1” CENTRAL COMMERCIAL DISTRICT**

**Section 12.2.08.01 Intent.**

The intent of the “C1” Central Commercial District is to provide commercial areas for business establishments serving the needs of trade area residents. Permitted uses are intended to create a strong central business district, free from conflicting land uses, which is the focal point to trade area retail sales, personnel, business and professional services, governmental and cultural activities.

**Section 12.2.08.02 Permitted Uses:**

The following uses and structures shall be permitted in the “C1” Central Commercial District:

1. Retail and wholesale sales;
2. Finance, insurance and real estate services;
3. Business services excluding and warehousing and storage services;
4. Churches, welfare and charitable services; business associations, professional membership organizations, labor unions and similar labor organizations, and civic, social and fraternal associations;
5. Eating and drinking places;
6. Communication and utility uses;
7. Automobile filling stations;
8. Public buildings and grounds;
9. Service establishments
10. Professional, governmental and education services;
11. Communication and utility uses;
12. Printing and publishing establishments
13. Bakery
14. Offices

**Section 12.2.08.03. Permitted Accessory Uses:**

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

**Section 12.2.08.04. Special Exceptions.**

The following uses may be permitted as special exception in the “C1” Central Commercial District by the Board of Adjustment, subject to such requirements, as the Board deems necessary to protect and promote the health, safety and general welfare:

1. Retail sales of lumber and other building materials, farm equipment, motor vehicles,

2. Marine crafts, mobile homes, trailers, farm and garden supplies, fuel and ice;
3. Adult uses, which include but are not necessarily limited to adult bookstores and adult motion picture theaters.
4. Truck or bus terminal;
5. Bar or tavern;
6. Manufacture or assembly of products and goods;
7. Wholesale merchandising or storage warehouse;
8. Licensed day care centers;
9. Apartment houses;
10. Hotel/motel
11. Apartments using the upper floors of commercial buildings;
12. Establishments manufacturing a product to be sold at retail on premises to the ultimate consumer.
13. Parking lot and/or garages.

**Section 12.2.08.05. Prohibited Uses:**

All uses and structures not specifically permitted or not permitted by special exception shall be prohibited in the “C1” Central Commercial District.

**Section 12.2.08.06. Area/Construction Regulations.**

1. **Minimum Lot Requirement:** Permitted uses shall have a minimum lot area of three thousand five hundred (3500) square feet and a minimum lot width of twenty-five (25) feet. Uses permitted by special exception shall have a minimum lot area and width as determined by the Board of Adjustment.
2. **Minimum Yard Requirements:** No yard shall be required in the “C1” Central Commercial District provided, however, that all buildings located on lots adjacent to a residential district shall observe a yard requirement equivalent to the minimum yard requirements of the residential district on the side or sides adjacent. Uses permitted by special exception shall have minimum yard requirements as determined by the Board of Adjustment.

3. **Maximum Lot Coverage:** The maximum lot coverage for all permitted uses shall not exceed ninety (90) percent. The maximum lot coverage for all uses permitted by special exception shall be as determined by the Board of Adjustment.
4. **Maximum Height:** The maximum height of all buildings and structures shall not exceed forty (40) feet.
5. **Construction Requirements:** All commercial buildings/structures shall be constructed on-site. Off-site constructed or moved-in structures shall not be allowed.

## **CHAPTER 12.2.09 “HC” HIGHWAY COMMERCIAL DISTRICT**

### **Section 12.2.09.01 Intent:**

The intent of this district is to accommodate those industrial uses able to meet performance standards and commercial uses not compatible with the Central Commercial District.

### **Section 12.2.09.02 Permitted Uses:**

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

1. Horticulture and the raising of field crops;
2. Automobile filling stations;
3. On-site signs;
4. Utility substations;
5. Wholesale or retail sales of: lumber and other building materials, farm equipment, motor vehicles, marine crafts, mobile homes, trailers, farm and garden supplies, fuel and ice; motor vehicles and automobile equipment; drug, chemicals, all allied products; dry goods and apparel; groceries, and related products; electrical goods, hardware, plumbing, heating and equipment and supplies; machinery, equipment and supplies; beer, wine, and distilled alcoholic beverages; paper and paper products; furniture and home furnishings; lumber and construction materials;
6. General farm products, household goods, and refrigerator warehousing and storage;
7. Motor freight terminals, garaging and equipment maintenance;
8. Mortuaries;
9. Contract construction services;

10. Off-site signs.

11. Public Buildings

**Section 12.2.09.03 Special Exceptions**

The following uses may be permitted as special exceptions in the “HC” Highway Commercial District by the City Board of Zoning Adjustment subject to such requirements as the board deems necessary to protect and promote the health, safety and general welfare.

- 1. Food lockers, provided that any slaughtering, killing, eviscerating, skinning, or plucking be done indoors;
- 2. Other industrial or commercial uses determined by the City Board of Zoning Adjustment to be consistent with the intent of this district.

**Section 12.2.09.04 Prohibited Uses:**

All uses and structures not specifically permitted or not permitted by special exception shall be prohibited in the “HC” District.

**Section 12.2.09.05 Area/Construction Regulations:**

- 1. **Minimum Lot Requirements**: The minimum lot area for permitted uses shall be one (1) acre or 43,560 square feet. The minimum width for permitted uses shall be one hundred (100) feet. The minimum lot area and width for uses permitted by special exception shall be as determined by the City Board of Zoning Adjustment.
- 2. **Minimum Yard Requirements**: Permitted uses shall have a minimum front yard of twenty-five (25) feet, minimum side yards of ten (10) feet, and a minimum rear yard of twenty (20) feet. The minimum yard requirements for uses permitted by special exception shall be as determined by the City Board of Zoning Adjustment.
- 3. **Maximum Lot Coverage**: The maximum lot coverage for all buildings and structures shall not exceed seventy-five (75%) of the total lot area. The maximum lot coverage for use permitted by special exception shall be as determined by the City Board of Zoning Adjustment.
- 4. **Maximum Height**: The maximum height of all buildings and structures shall not exceed forty-five (45) feet.
- 5. **Construction Requirements**: All commercial buildings/structures shall be constructed on-site. Off-site constructed or moved in structures shall not be allowed.

CHAPTER 12.2.10 “PUD” PLANNED UNIT DEVELOPMENT DISTRICT

### **Section 12.2.10.01 Intent**

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

### **Section 12.2.10.02 Application and Modification Powers**

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

### **Section 12.2.10.03 Procedure**

The following procedural and informational requirements shall be followed for planned unit development requests:

1. **Planning and Zoning Commission Review.** Applicant shall meet with the Planning and Zoning Commission on an informal basis at its regular meeting to relate his intent. The Planning and Zoning Commission will evaluate the consistency of his intent with the comprehensive guide plan. Thereafter, the Planning and Zoning Commission may refer the application to the City staff or consultants to review materials presented and to discuss the plan proposal, suggest alternatives as necessary, and authorize presentation of concept plan and supportive information.
2. **Concept Plan and Supportive Information:** Applicant shall prepare the following supportive graphic and written information materials as follows:
  - a. Property description and acreage, identification of owner and developer.

- b. Existing conditions, area relationships, surrounding property ownership, relationship to guide plan, existing land use, transportation zoning, utilities, etc.
- c. Natural features, water, topography, soils, vegetation, etc., and their implications, if any, for development.
- d. Concept plan showing land use areas, land use intensities, acreages, number of units, proposed circulation, open space, recreation and development staging.
- e. Written information describing proposed land use and land use objectives, the type and character of buildings, methods of providing utilities, etc.

3. Final Development Plan:

- a. Applicant shall prepare a final development plan for that part to be rezoned. Required graphic and written information for the final plan is on file at the City Office.
- b. Applicant shall prepare the following supportive graphic and written information materials as follows:
  - 1. Legal descriptions of all parcels to be rezoned.
  - 2. Detailed site plan showing all dimensions, structures, parking and streets, utilities, common open spaces, and grading.
  - 3. Covenants and restrictions if any, applying to each tract and to open spaces and including the responsibility for the maintenance and operation of common areas and facilities.
  - 4. Density and gross building computations.
  - 5. Preliminary architectural drawings for each different building type, except single-family dwellings, showing building elevations, schematic floor plans, unit relationships, activity areas, building materials, etc.
  - 6. Construction and occupancy schedule.
  - 7. A description of the nature and character of non-residential developments including a description of waste emissions, activities conducted on the premises, etc.

**Section 12.2.10.04 Final Application-Rezoning**

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

### **Section 12.2.10.05 Review**

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

### **Section 12.2.10.06 Final Development Plan**

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

## **CHAPTER 12.2.11 “I” INDUSTRIAL DISTRICT**

### **Section 12.2.11.01. Intent**

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

### **Section 12.2.11.02 Permitted Uses:**

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

1. Horticulture and the raising of field crops;
2. Utility substations;
3. Storage plants, lumber yards, distributing stations and warehouses;
4. Motor freight terminals, garaging and equipment maintenance;
5. Light assembly work, machine shops doing assembling or shaping and light cutting and sampling, provided there is not outside storage of materials or product.
6. Woodworking shops or plants, provided that there is not outside storage of materials or product;
7. Any industrial use, other than those permitted by special exception, that can meet the performance standards listed in section 12.2.11.07:

**Section 12.2.11.03 Permitted Accessory Uses:**

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

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

**Section 12.2.11.04 Special Exceptions:**

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

1. Junk or salvage yards, provided that the area is enclosed or screened from public view as required by the Board of Adjustment;
2. Other industrial or commercial use determined by the Board of Adjustment to be consistent with the intent of this District.

**Section 12.2.11.05 Prohibited Uses:**

All uses and structures not specifically permitted or not permitted by special exception shall be prohibited in the “I” Industrial District.

**Section 12.2.11.06 Area/Construction Regulations:**

1. **Minimum Lot Requirement:** The minimum lot area for permitted uses shall be thirty thousand (30,000) square feet. The minimum lot width for permitted uses shall be one hundred fifty (150) feet. The minimum lot area and width for uses permitted by special exception shall be determined by the Board of Adjustment.
2. **Minimum Yard Requirements:** Permitted uses shall have minimum front yard of fifty (50) feet; minimum side yards of ten (10) feet, except when bordering a residential district, then a side yard should be thirty-five (35) feet and such side yards shall be landscaped or fenced in a suitable manner to buffer residential uses; and a minimum rear yard depth of thirty-five (35) feet shall be required which abut a residential district and such rear yard shall be landscaped or fenced in a manner to buffer residential uses. All other rear yards shall be twenty-five (25) feet. The minimum yard requirements for uses permitted by special exception shall be determined by the Board of Adjustment.
3. **Maximum Lot Coverage:** The maximum lot coverage for all buildings and structures shall not exceed fifty (50) percent of the total area. The maximum lot coverage for uses permitted by special exception shall be as determined by the Board of Adjustment.

4. **Maximum Height:** The maximum height of all buildings and structures shall not exceed fifty (50) feet.
5. **Construction Requirements:** All industrial buildings/structures shall be constructed on-site. Off-site constructed structures or moved-in structures shall not be allowed.

#### **Section 12.2.11.07.Performance Standards**

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

#### **CHAPTER 12.2.12 FP FLOOD PLAIN DISTRICT**

##### **Section 12.2.12.01 Intent:**

The intent of the “FP” Flood Plain District is to protect from encroachment watershed areas subject to flooding, backwater spreading, and flood water or overflow of streams or rivers.

**Section 12.2.12.02 Permitted Uses:**

The following open space uses shall be permitted within the Flood Plain District provided they do not require structures, landfill or storage of materials or equipment. In addition, no use shall adversely affect the efficiency or unduly restrict the capacity of the channels or floodways of any tributary to the main stream.

1. Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming, and wild crop harvesting;
2. Industrial-commercial uses such as loading areas, parking areas, and airport landing strips;
3. Private and public recreational uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shoot preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails.

**Section 12.2.12.03 Uses Permitted on Review :**

No permit shall be issued for the construction of any building or structure including railroads, street, buildings and utility lines or for any use within the Flood Plain District until plans for construction have been submitted to the Planning Commission and approval is given in writing after the other provisions of this Ordinance has been fulfilled. In its review of plans submitted, the Planning Commission shall be guided by the following standards, keeping in mind that the purpose of this district is to prevent encroachment into the floodway which will unduly increase flood levels and endanger life and property.

1. Any structures or filling of land permitted shall be of a type not appreciably damaged by floodwaters;
2. Any use permitted shall be in harmony with and not detrimental to the uses permitted in the adjoining district;
3. Any permitted structures or the filling of land shall be designed, constructed, and placed on the lot so as to offer the minimum obstruction to and effect upon the flow of water;
4. Any structure, equipment or material permitted shall be firmly anchored to prevent it from floating away and thus damaging other structures and threatening to restrict bridge openings and other restricted sections of the stream;
5. The storage or processing of materials that are in time of flood buoyant, flammable, explosive or injurious to human, animal or plant life is prohibited.

6. Any structure shall be constructed on fill so that the first floor is above the regulatory flood-protection elevation. The fill, which shall include the access to the structure from a public street, shall have an elevation no less than one foot below the regulatory flood protection elevation for the particular area and the fill shall extend no less than ten (10) feet beyond the limits of any structure or fill on the flow of water, the Planning Commission may require the applicant to submit such data.
7. Any structure may, in special circumstances, be protected by other flood proofing measures to a point at or above the regulatory flood protection elevation.
8. Where in the opinion of the Planning Commission topographical data, engineering and other studies are needed to determine the effects of flooding on a proposed structure or fill and/or the effect of the structure or fill on the flow of water, the Planning Commission may require the applicant to submit such data.
9. The granting of approval of any structure or use shall not constitute a representation, guarantee of warranty of any kind by the Planning Commission or by any officer or employee thereof, of the practicality or safety of any structure or use proposed and shall create no liability upon or cause action against such public body, officer or employee for damage that may result pursuant thereto.

**Section 12.2.12.04 Area, Height, and Parking Regulations**

Any structure or use permitted shall comply with the minimum area, height, and parking regulations established for such structure and use in the most restrictive of the adjacent zoning districts and with other parts of the Ordinance which regulate the use of its normal accessory uses.

**ARTICLE 111  
ADMINISTRATION**

**CHAPTER 12.3.01 GENERAL**

**Section 12.3.01.01 Permits Required.**

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

**Section 12.3.01.02 Applications.**

All applications for permits shall be accompanied by plans in duplicate drawn to scale, showing

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

One copy of the plan shall be returned to the applicant by the Administrative Official, after such copy has been marked either approved or disapproved and attested to by his signature on such copy. The original of the plans, similarly marked, shall be retained by the Administrative Official. The Administrative Official shall then, if the application is approved, issue a signed building permit, or if the application is disapproved he shall notify the party making the application as to rejection of said plans.

**Section 12.3.01.03 Fee Schedule.**

The City Council shall establish a schedule of fees, charges, and expenses and a collection procedure for use permits, certificates of zoning compliance, amendments, appeals, and other matters pertaining to this ordinance. The schedule of fees may be altered or amended by the City Council.

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

**Section 12.3.01.04 Issuance of Permits.**

Permits issued on the basis of plans and applications approved by the Administrative Official authorize only use, arrangement, and construction set forth in such approved plans and applications, and other use, arrangement, or construction at variance with that authorized shall be deemed violation of this Ordinance, and punishable as provided by Section 12.1.02.02 of this code.

**Section 12.3.01.05 Expiration of Use Permit.**

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

If the work described in any use permit has not been substantially completed within one (1) year of the date of issuance thereof, said permit shall expire and be canceled by the Administrative

Official, and written notice thereof shall be given to the persons affected, together with notice that further work as described in the canceled permit shall not proceed unless and until a new permit has been obtained.

## **CHAPTER 12.3.02 ADMINISTRATIVE OFFICIAL**

### **Section 12.2.02.01 Establishment and Purpose.**

The position of Administrative Official is hereby established for the City of Colman. The Administrative Official may be employed by the City or other entity in another position. The City Council shall appoint the Administrative Official. Further, he/she may be provided with the assistance of such other persons as the City Council may direct. The Administrative official shall administer and enforce this ordinance. It is the intent of this ordinance that all questions of interpretation and enforcement shall be first presented to the Administration Official and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Administration Official.

### **Section 12.3.02.02 Duties.**

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

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

9. Forward to the Board of Adjustment, applications for appeals, variances, or other matters on which the Board of Adjustment is required to pass under this Ordinance.
10. Initiate, direct, and review, from time to time, a study of the provisions of this Ordinance, and to make such reports available to the Planning and Zoning Commission. The Administration Official shall receive applications for Building Permits, Special Exceptions, Variances, and Zoning Amendments.
  - a. For Building Permits, the Administrative Official shall approve the application only in accordance with the provisions of the City's Zoning Regulations.
  - b. For Special Exceptions and Variances, the Administrative Official shall review the application, and shall make a recommendation to the Board of Adjustment to either approve or not approve said application.
  - c. For Zoning Amendments, the Administrative Official shall review the application, and shall make comments regarding said application to the Planning and Zoning Commission.

**Section 12.3.02.03 Powers.**

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

**CHAPTER 12.3.03.01 BOARD OF ADJUSTMENT**

**Section 12.3.03.01 Establishment.**

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

**Section 12.3.03.02 Procedures for Meetings.**

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

The Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote indicating such fact and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed in the office of the Board of Adjustment.

**Section 12.3.03.03 Hearings: Appeals: Notice:**

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

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

**Section 12.3.03.04 Stay of Proceedings.**

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

**Section 12.3.03.05 Powers and Duties of Board of Adjustment.**

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

**1. Administrative Review:**

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

**1. Special Exceptions:**

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

## **2. Variances:**

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

### **CHAPTER 12.3.04 PROCEDURES FOR APPLICATIONS**

#### **Section 12.3.04.01 Building Permits.**

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

1. An Application for a Building Permit, accompanied with the appropriate fee, available from the Administrative Official or Finance Officer, shall be completed by the landowner requesting the Building Permit. Completed applications shall be returned to the Administrative Official for review. To be considered complete, the application form shall be accompanied by the following additional items:
  - a. Applications for building permits shall be accompanied by a duplicate set of plans drawn to scale with the following information indicated in order to determine compliance with the Ordinance.
  - b. A plot plan, drawn to scale, showing the exact size, shape, and dimensions of the lot to be built upon, the exact size and location on the lot of all existing buildings and structures, and the exact size and location on the lot of the structure or building proposed to be repaired, altered, erected, or moved, and the size, arrangement, number of parking stalls, movement of vehicles and ingress and egress drives for all all off-street parking and

- loading facilities.
- c. The location of the said lot with respect to existing right-of-way and adjacent lots.
  - d. A letter certification stating that the lot to be built upon has been accurately surveyed.
  - e. Any other information which the Administrative Official may deem necessary for consideration in enforcing the provisions of this Ordinance.
  - f. Any of the above requirements may be waived by the Administrative Official in cases of permits to alter the interior of an existing structure or in the event lot markers (pins) have been located.
2. One Copy of the plans shall be returned to the applicant, after the Administrative Official has marked such copy as either approved or disapproved, and attested to the same by signing said copy of the plans. One copy of the plans, similarly marked, shall be retained by the Administrative Official for city records.
  3. The Administrative Official shall then, if the application is approved, issue a signed building permit. If the Administrative Official determines the proposed action would not be in compliance with the provisions of these regulations, a building permit may not be issued, and the applicant may then appeal the action of the Administrative Official to the Board of Adjustment.
  4. Building permits shall be posted in a conspicuous place upon the premises and visible from the public right-of-way at all times from the beginning until completion of such construction, alteration, or repair.

**Section 12.3.04.02 Moved in Buildings**

1. It shall be unlawful to move any house or other building onto any lot or to any new location within the City unless and until a permit to do so has been obtained from the Administrative Official. No permit shall be issued until the following requirements are met.
  - a. The fee for said permit as prescribed in Section 12.3.01.03, shall have been paid.
  - b. That it shall have been shown to the satisfaction of the Administrative Official that the said house or other building complies with the gas, plumbing, electrical and construction requirements of the City of Colman.
  - c. That the work is to be completed within twelve (12) months after the permit has been issued by the Administrative Official.
  - d. The applicant shall also file with the Finance Officer a sufficient bond conditioned so that the applicant will indemnify the City and any public utility for any damage done to any property, street, alley or public grounds. No building shall be moved other than during the period from daylight to

sundown. Before any permit is granted under this section, the applicant must furnish proof that all taxes legally assessed against the property have been paid. If a building or structure is to be moved onto any lot within the city, the Administrative Official shall have the power to deny the granting of a moving permit on the grounds that the intended use of the structure or location thereof is contrary to the provisions of this chapter.

- e. Any building which is not newly constructed to be used for occupancy, shall also meet the following minimum requirements to obtain a permit.
  1. The written consent of all property owners owning property immediately adjacent (excluding streets and alleys) to the proposed building site and the consent of fifty (50) percent of the property owners within 300 feet (excluding streets and alleys) of said proposed location has been received.

#### **Section 12.3.04.03 Special Exceptions**

Special Exceptions are allowed for certain uses in some districts, as identified in Article 11 District Regulations. Uses not listed in the District Regulations as eligible for a Special Exception Permit shall not, in any circumstances, be granted a Special Exception Permit.

The following procedure for requesting a Special Permit shall be followed:

1. The following procedure shall be followed by the Board of Adjustment in considering the recommendation of the Administrative Official. A Special Exception Permit from the terms of this ordinance shall not be granted by the Board of Adjustment unless and until:
  - a. An application for a Special Exception Permit, available from the Administrative Official or Finance Officer shall be completed by the landowner requesting the Special Exception Permit. The application shall further be accompanied by any required attachments and fees, including Mail costs, in Section 12.3.01.03. The written application for a special exception shall indicate the section of this Ordinance under which the special exception is sought and stating the grounds on which it is requested; Completed applications shall be returned to the Administrative Official for review. To be considered by the Board of Adjustment, the application form shall be completed. If any of the information required by Section 12.3.04.01 has changed since the original Building Permit application, the revised, updated or corrected information shall accompany the application for a Special Exception Permit.
  - b. The Administration Official shall review the application, and shall make a recommendation to the Board of Adjustment to either approve or not approve said application. The Administrative Official's recommendation shall include a summary of the application, and reasons and justification for either approval or disapproval of the application.
  - c. The Administrative Official shall set the date, time and place for a public hearing to be held by the Board of Adjustment. The Administrative Official shall notify the landowner and all owners of property within 150 feet, excluding streets, and alleys, by Mail at the expense of the applicant, at least one week before the public hearing. The Administrative Official shall

post notices of the public hearing at the City Office and on the property affected by the proposed Special Exception Permit. The Administrative Official shall publish notice of the public hearing, with all costs to be paid by the applicant, not less than 15 days prior to the public hearing in a newspaper of general circulation in the area affected by the proposed Special Exception Permit.

- d. A public hearing shall be held. Any party may appear in person, or by agent or attorney;
  - e. The Board of Adjustment shall rule that it is empowered under the section of this ordinance described in the application to grant the Special Exception, and that the granting of the Special Exception will not adversely affect the public interest; and
  - f. Before any Special Exception shall be issued, the Board of Adjustment shall make written findings certifying compliance with the specific rules governing individual Special Exceptions and that satisfactory provision and arrangement has been made concerning the following, where applicable:
    1. Utilities, refuse, and service areas, with reference to locations, availability, and compatibility;
    2. Screening and buffering with reference to type, dimensions, and character;
    3. Required yards and other open space; and
    4. General compatibility with adjacent properties and other property in the district.
    5. Entrance and exit to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
    6. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the District.
2. In order to preserve the intent of these Zoning Regulations and to protect the public interest, the Board of Adjustment may attach conditions to a Special Exception Permit. A Special Exception Permit shall remain valid only as long as the original applicant complies with any terms and conditions of the Special Exception Permit, as attached by the Board of Adjustment.
  3. The Board of Adjustment shall make a finding that is either empowered or not empowered by these Zoning Regulations to grant the request Special Exception Permit, and that such Special Exception Permit is either consistent or inconsistent with the intent of these Zoning Regulations.

4. Approval or denial of any application for a Special Exception permit shall be by two-thirds (2/3) majority of all members of the Board of Adjustment.

**Section 12.3.04.04 Variances.**

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

The following procedure for requesting a Variance shall be followed:

1. The following procedure shall be followed by the Board of Adjustment in considering the recommendation of the Administrative Official. A variance from the terms of this ordinance shall not be granted by the Board of Adjustment unless and until:
  - a. An application for Variance, available from the Administrative Official or Finance Officer, shall be completed by the landowner requesting the variance, and shall be accompanied by and required attachments and fees, including Mail costs as in Section 12.3.01.03. The written application for a variance shall indicate the section of this Ordinance under which the variance is sought and stating the grounds for which it is requested. Completed applications shall be returned to the Administrative Official for review. To be considered by the Board of Adjustment, the application form shall be completed. If any of the information required by Section 12.3.04.01 has changed since the original Building Permit application, the revised, updated or corrected information shall accompany the application for a Variance.
  - b. The Administrative Official shall review the application, and shall make a recommendation to the Board of Adjustment to either approve or not approve said application. The Administrative Official's recommendation shall include a summary of the application, and reasons and justification for either approval or disapproval of the application.
  - c. The Administration Official shall set the date, time and place for a public hearing to be held by the Board of Adjustment. The Administrative Official shall notify the landowner and all owners of property within 150 feet, excluding streets, and alleys by mail at the expense of the applicant, at least one week before the public hearing. The Administrative official shall publish notice of the public hearing, with all costs to be paid by the applicant, not less than than fifteen (15) days prior to the public hearing in a newspaper of general

circulation in the area affected by the proposed variance.

- d. A public hearing shall be held. Any party may appear in person, or by agent or attorney;
- e. The following procedure shall be followed by the Board of Adjustment in considering the recommendation of the Administrative Official. A variance from the terms of this ordinance shall not be granted by the Board of Adjustment unless and until:
  1. A written application for a variance is submitted demonstrating:
    - a. That special conditions and circumstances exist which are particular to the land, structure or building involved, and which are not applicable to other land, structures, or buildings in the same district;
    - b. That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance;
    - c. That special conditions and circumstances do not result from the actions of the applicant; and
    - d. That granting the variance request will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district.
    - e. No non-conforming use of neighboring lands, structures, or buildings in the same district, and no permitted or non-conforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.
  - f. The Board of Adjustment shall make a finding that the requirements of Section 12.3.04.04.1.e.1 above have been met by the applicant for a variance;
  - g. The Board of Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure; and
  - h. The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
  - i. Approval or denial of any variance shall be by a two-thirds (2/3) majority of all members of the Board of Adjustment.

In granting any variance, the Board of Adjustment may prescribe appropriate conditions

and safeguards in conformity with this ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable under Chapter 12.1.02, Section 12.1.02.02 of this code.

Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district.

**Section 12.3.04.5 Board Has Powers of Administrative Official on Appeals: Reversing Decision of Administrative Official:**

1. It is the intent of this Ordinance that all questions of interpretation and enforcement shall be first presented to the Administrative Official, and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Administrative Official.
2. In exercising the above-mentioned powers, the Board of Adjustment may, so long as such action is in conformity with the terms of this ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have the powers of the Administrative Official from whom the appeal is taken.
3. The concurring vote of two-thirds (2/3) of all members of the Board of Adjustment shall be necessary to reverse an order, requirement, decision, or determination of the Administrative Official, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to effect any variation in the application of this ordinance.

**Section 12.3.04.06 Appeals:**

Any persons, or any board, taxpayer, department, board, or bureau of the City aggrieved by any decision of the Board of Adjustment may seek review by a court of record of such decision, in the manner provided by the laws of the State of South Dakota.

**Section 12.3.04.07 Zoning Amendments.**

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

1. An application for Amendment, available from the Administrative Official or Finance Officer, shall be completed by the landowner or other person(s) requesting the Amendment. Completed applications shall be returned to the Administrative Official for review. To be considered by the Planning and Zoning Commission and City Council, the application form shall be completed and shall be accompanied by the following items:
  - a. Any required attachments and City fees, including Mail costs in Section 12.3.01.03;and

- b. Any additional information, as requested by the Administrative Official, as lawfully may be required to determine conformance with and provide for the enforcement of this ordinance.
- c. The Administrative Official shall review the application, and shall forward a summary of the application, and his/her comments regarding said application, to the Planning and Zoning Commission for their review.
- d. The Administrative Official shall set the date, time and place for a joint public hearing to be held by the Planning and Zoning Commission and City Council. The Administrative Official shall notify the landowner/applicant by Mail at least 1 week before public hearing, and shall post notices of the public hearing at the City Office and on the property affected by the proposed Amendment, if applicable. The Administrative Official shall also publish notice of the public hearing in a newspaper of general circulation in the area affected by the proposed Amendment; such notice shall be published not less than 15 days prior to the public hearing. If the proposed amendment will change the boundaries of a zoning district, the Administrative Official shall notify all owners of property within 150 feet, excluding streets and alleys, of the proposed boundary change, by Certified or Registered Mail at the expense of the applicant, at least one week before the public hearing.
- e. The public hearing shall be held. Any person may appear in person, or by agent or attorney. Minutes of the public hearing shall be recorded and kept in the records of the Planning and Zoning Commission.
- f. The Planning and Zoning Commission shall either recommend or not recommend approval of the amendment to the City Council.
- g. The City Council shall either approve or not approve the ordinance describing the proposed changes to these Zoning Regulations, in accordance with the standard procedures for reading, approval, publication and effective date.

**ARTICLE IV  
SUPPLEMENTAL REGULATIONS**

**CHAPTER 12.4.01 VISIBILITY AT INTERSECTIONS IN RESIDENTIAL DISTRICTS.**

On a corner lot in any residential district, nothing shall be erected, placed, planted, or allowed to grow in such a manner as materially to impede vision between a height of two and one-half (2 ½) feet and ten (10) feet above the center line grades of the intersecting streets in the area bounded by the street lines of such corner lots and line joining points along said street lines fifty (50) feet from the point of intersection.

**CHAPTER 12.4.02 FENCES**

**Section 12.4.02.01 Construction Limitations.**

Notwithstanding other provisions of this ordinance, fences, walls, and hedges may be permitted in any required yard, or along the edge of any yard, provided that no fence, wall, or hedge running parallel to a street, along the sides or front edge of any front yard shall be over five (5) feet in height. However, if the fence, wall or hedge running parallel to the street is further than forty (40) feet from the street line, it may be seven (7) feet high.

No person shall hereafter construct, erect or maintain or cause to be constructed, erected or maintained in the City limits any fences of any character of material closer to the sidewalk line than one foot, and no barbed wire shall be used in the construction of any fences within the city limits.

#### **CHAPTER 12.4.03 ACCESSORY BUILDINGS.**

No accessory building which is attached to or within 10 feet of a principal structure shall be erected in any required yard. No separate accessory building shall be erected within 3 feet of any side or rear lot line, except that when a garage is entered from an alley it shall not be located closer than 20 feet to the alley line. Accessory buildings may be located in a rear yard, but may not occupy more than 30% of the rear yard, and shall not be used for dwelling purposes.

#### **CHAPTER 12.4.04 SIGNS AND OUTDOOR ADVERTISING.**

##### **Section 12.4.04.01 On- and Off-Site Signs:**

1. No private sign shall be erected or maintained which:
  - a. Creates a hazard due to collapse, fire, collision, decay or abandonment; or
  - b. Creates traffic hazards, by either:
    1. Confusing or distracting motorists, or
    2. Impairing the driver's ability to see pedestrians, obstacles or other vehicles, or
    3. Impairing the driver's ability to see and interpret any official traffic sign, signal or device; or
    4. Creates a nuisance to persons using a public right-of-way; or
    5. Constitutes a nuisance to occupancy of adjacent and contiguous property by its brightness, size, height, or movement.
2. Signs shall be permitted all zoning districts, subject to the following provisions:
  - a. Wall signs may be located anywhere on the wall of a building.

- b. Freestanding signs shall not project over public property;
  - c. Freestanding signs shall not be erected adjacent to a corner of two intersecting streets, unless such signs are constructed to not obstruct the view of said intersection.
  - d. Each sign in the incorporated limits of Colman shall at least meet the standards established by the South Dakota Department of Transportation.
  - e. Other than utility fixtures or holiday decorations, no signs, awnings, or display shall be suspended, hanged or placed so that the same shall hang over any part of a street, or sidewalk, used for vehicular or pedestrian travel unless a written application for a permit is made to the Administrative Official and the said Official grants a permit therefor.
3. The Administrative Official shall take into consideration factors that would make the proposed structure likely to endanger the property or personal safety of passerby traveling the streets or sidewalks in question, and whether or not such structure complies with the National Building Code relating to outdoor advertising.

## **CHAPTER 12.4.05 PARKING**

### **Section 12.4.05.01 Parking, Storage, or Use of Major Recreation Equipment.**

For purposes of these regulations, major recreational equipment is defined as including boats and boat trailers, travel trailers, pick-up campers or coaches (designed to be mounted on automotive vehicles), motorized dwellings, tent trailers, and the like, and case or boxes used for transporting recreational equipment, whether occupied by such equipment or not. No major recreational equipment shall be parked or stored in the required front yard of any lot in a residential district, provided however that such equipment may be parked anywhere on residential premises for a period not to exceed 24 hours during loading or unloading. No such equipment shall be used for living, sleeping, or housekeeping purposes when parked or stored on a residential lot, or in any location not approved for such use.

### **Section 12.4.05.02 Parking and Storage of Certain Vehicles:**

Automotive vehicles or trailers of any kind or type without current license plates shall not be parked or stored on any residentially zoned property other than in completely enclosed buildings.

### **Section 12.4.05.03 Off-street Parking Requirements:**

1. Single Family Dwellings: Off-street parking for two vehicles shall be provided for every dwelling until exclusive of required yards.
2. Hospital, convalescent or nursing homes: one (1) parking space for each four beds for which accommodations are offered.

3. Multiple family dwellings: Two (2) parking spaces for each dwelling unit except housing for the elderly projects which shall provide one (1) parking space for each dwelling unit exclusive of required yards:

#### **CHAPTER 12.4.06 STRUCTURES TO HAVE ACCESS**

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

#### **CHAPTER 12.4.07 DECAYING OR BURNED BUILDINGS**

##### **Section 12.4.07.01 Removal of Decaying or Burned Building.**

Whenever in the opinion of the Administrative Official any building within the limits of this City shall have been damaged by fire, building collapse, decay or otherwise to the extent of a decrease in the current fair market value to less than fifty (50) percent of the assessed value thereof, it shall be the duty of the Administrative official to report the same in writing to the City Council at some regular meeting describing the said building, its location and the name of the owner if known.

The Finance Officer shall then issue a notice by certified or registered mail, or by personal service upon the owner, who, if within the State, or in case of absence from the state, upon his agent if there be one, requiring the said owner to appear before the City Council at a time and place specified in said notice to show cause why said building should not be torn down or removed. The notice shall be served shall be deemed valid and complete.

##### **Section 12.4.07.02 Decaying or Burned Buildings: Hearing, Remedies.**

The City Council shall accept evidence pertaining to the condition of such building, the extent to which the same has been damaged and the present value thereof. If in the judgment of the City Council such building has been damaged by fire, decay, or otherwise to the extent of a decrease in the current fair market value to less than fifty (50) percent of the assessed value, then an order shall be made and entered on the record, condemning such building to be removed with the time as therein specified under the direction of the Administrative Official and the Chief of Police.

A copy of the City Council's order requiring the building to be removed shall be served by Registered or Certified Mail upon the owner, unless the owner could not be found and notice of the hearing was required to be made by publication as set forth in 12.4.07.01. The time within which the owner has to remove the building would start from the date notice is served upon the owner.

Any disregard of said order shall be deemed a violation of this ordinance, and the City may prosecute the offender. In addition the City may remove the building and hold a lien against the

property for all necessary expenses.

## **CHAPTER 12.4.08 YARDS**

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

### **Section 12.4.08.01 Yards, Reduction in Size.**

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

### **Section 12.4.08.02 Additional Yard Requirements.**

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

1. Except in the “A” and “C1” Districts, a corner lot must have a front yard on both streets, providing however that the buildable width of such lot shall not be reduced to less than thirty-eight (38) feet. In no instance shall the yard on the side street of a corner lot be reduced to less than ten (10) feet.
2. On through lots and reversed frontage lots, a front yard must be provided on both streets.
3. Required front yards shall be devoted entirely to landscaped area except for the necessary paving or driveways and sidewalks to reach parking or loading areas in side or rear yard.

### **Section 12.4.08.03 Exceptions to Yard Requirements**

The following exceptions may be made to the yard requirements:

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

part of the main building and shall be provided with the same side and rear yard requirements as the main building.

#### **CHAPTER 12.4.09 ERECTION OF MORE THAN ONE PRINCIPAL STRUCTURE ON A LOT.**

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

#### **CHAPTER 12.4.10 EXCEPTIONS TO HEIGHT REGULATIONS.**

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

#### **CHAPTER 12.4.11 PRIVATE WASTEWATER TREATMENT SYSTEMS (SEPTIC TANKS)**

All existing septic tanks shall be considered Non-Conforming Uses. Any new construction or substantial improvement must be connected to the City's sewer system.

#### **CHAPTER 12.4.12 MANUFACTURED HOME PROVISIONS.**

##### **Section 12.4.12.01 Modular Homes**

1. Modular homes shall meet the following regulations.
  - a. Modular homes shall meet or exceed Uniform Building Codes.
  - b. Modular homes will include all off-site constructed homes, which may transported to the site in one or more sections.
  - c. Modular homes shall have more than 1000 square feet in ranch style and 850 square feet split and be placed on a permanent foundation. The foundation shall be to a depth below the frost line.
  - d. Modular homes shall have a minimum of 3/12 pitch.
  - e. Have siding material of type customarily used on site-constructed residences.
  - f. Have roofing material of a type customarily used on site-constructed residences.

##### **Section 12.4.12.02 Type 1 and Type 2 Manufactured Homes**

1. For the purpose of this Ordinance, manufactured home will be regulated by type. Two types of

homes are defined under these regulations.

a. Type 1 manufactured home shall:

1. Have more than 1,100 square feet of occupied space in a double-section or larger multi-section unit.
2. The running gear and hitch have been removed.
3. Has been anchored to a foundation and permanent footing.
4. The foundation shall be (a) an approved wood basement constructed of 2x6 frame work and treated water resistant materials; or (b) a foundation shall be constructed with eight inches poured concrete on concrete block.
5. The footing to be a minimum of eight inches thick by 16 inches wide poured concrete with top footing to be six inches below grade.
6. Prior to placement of a home on the foundation, it must be inspected and approved by the Administrative Official.
7. Have a gabled roof with a pitch of at least 1/12 feet.
8. Have a siding material of a type customarily used on site-constructed residences.
9. Have a roofing material of a type customarily used on site-constructed residences.
10. The age of the manufactured house may not exceed ten years from the date of manufacture.

b. Type 11 manufactured home shall

1. Have more than 700 square feet of occupied space in a single, double, expando or multi-section unit.
2. Utilize a permanent perimeter enclosure in accordance with approved installation standards, as specified in 12.4.12.02.B.2.
3. Be anchored to the ground, in accordance with manufacture's specifications, or as prescribed by the TR-75, issued June 1972, by the U. S. Department of Defense or by the ANTI/NFPA 501A Standards.
4. Have siding material of a type customarily used on site-constructed residences.

5. Have a roofing material of a type customarily used on site-constructed residences.
6. The age of the manufactured house may not exceed ten years from the date of manufacture.
7. Be placed onto a support system, in accordance with approved installation standards, as specified in Section 12.4.12.02B.3.b.

## 2. Installation Standards

### a. Permanent Perimeter Enclosure as Required for Type 1 and 1 Manufactured Homes

Those manufactured homes designated in this Ordinance (Type 1) as requiring a permanent perimeter enclosure must have footings and crawl space or basement walls. The space between floor joints of the home shall be completely enclosed with the permanent perimeter enclosure (except for required openings).

### b. Foundation Siding/Skirting

All manufactured homes with a permanent perimeter (Type 1) enclosure shall have an approved foundation siding/skirting enclosing the entire perimeter of the home.

### c. Support System

1. All HUD-Code manufactured homes of the Type 1 classification shall be installed with load bearing foundations in conformance with the manufacturer's installation specifications.
2. Type 11 manufactured homes not placed on a permanent foundation shall be installed on a support system in conformance with the manufacturer's installation specifications or with the support systems regulations in the ANTI/NFPA 501A 1977 installation standards.

## 3. Nonconforming Homes.

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

## 4. Structural Alternation.

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

### **Chapter 12.4.13 Permanent Foundations Required for Dwellings**

No dwelling shall be constructed, installed or moved into the area under the jurisdiction of these regulations, unless said dwelling is constructed upon, installed on or moved onto a permanent foundation, as defined in these regulations. Exempted from this requirement are manufactured homes in an approved manufactured home park, and Type 11 and Type 111 manufactured homes allowed by conditional use, provided said manufactured homes are anchored with tie downs to prevent the manufactured home from dangerous motion during high wind or other weather related event.

### **CHAPTER 12.4.14 UTILITY EASEMENTS.**

No building or addition thereto shall be erected over or across any existing public utility nor upon any platted easement.

## **ARTICLE V DEFINITIONS**

### **CHAPTER 12.5.01 GENERAL TERMS**

For the purpose of this ordinance, certain terms and words are defined.

**The present tense** includes the future tense;

**The singular number** includes the plural

**The plural number** includes the singular;

The word “**lot**” includes the words “plot” or “parcel”;

The word “**shall**” is mandatory, the “**may**” is permissive;

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

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

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

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

**Building.** Any structure, including a roof supported by posts or columns, designed or intended for the support, enclosure, shelter, or protection of persons, animals, chattels, or property of any kind. The word building shall include the word “structure”.

**Building Area.** The portion of lot remaining after required yards have been provided.

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

**Day Care Center.** Any operation which provides child care services. To be considered a Day Care Center under these regulations, such operation must be licensed by the State of South Dakota.

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

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

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

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

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

**Family.** One or more persons occupying a single dwelling unit, provided that unless all the members are related by blood or marriage, no such family shall contain over five (5) persons, but further provided that domestic servants employed on the premises may be housed on the premises without being counted as a family or families.

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

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

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

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

**Home Occupation.** An occupation conducted in a dwelling unit, provided that:

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

6. Notwithstanding the preceding standards, any operation which provides care for more than 12 children in a 24 hour period, shall not be considered a home occupation.

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

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

**Junk Yard.** Any area where waste junk, discarded or salvaged materials are bought, sold, stored, exchanged, baled or packed, disassembled or handled, including dismantling or wrecking of automobiles or other vehicles or machinery.

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

**Lot.** For purposes of this ordinance, a lot is a parcel of land of sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street or on a private street approved by the Board of Adjustment.

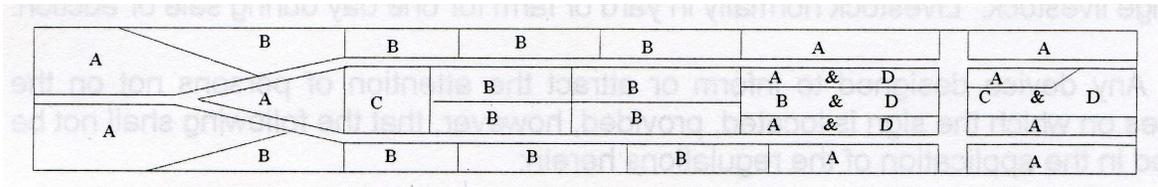
**Lot Frontage.** The front of a lot shall be construed to be the portion nearest the street. For the purposes of determining yard requirements on corner lots and through lots and through lots, all sides of a lot adjacent to streets shall be considered frontage. Minimum frontage for lots located on cul-de-sacs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

**Lot Measurements.**

1. **Depth** of a lot is the mean distance from the front line of lot to its rear line measured in the general direction of the side line of the lot.
2. **Width** of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard.

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

**Lot Types.** See figure below.



**Corner Lot.** Defined as a lot located at the intersection of two or more streets. A lot abutting a curved street or streets shall be considered a corner if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees.

**Interior Lot.** Defined as a lot other than a corner lot with only one frontage on a street.

**Through Lot.** Defined as a lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots.

**Reversed Frontage Lot.** Defined as a lot on which the frontage is at right angles or approximately right angles (interior angles less than 135 degrees) to the general pattern in the area. A reversed frontage lot may also be a corner lot (A-D in the diagram), and interior lot (B-D) or through lot (C-D).

**Manufactured Home.** See Section 12.4.12.02

**Manufactured Home Park.** See Section 12.2.07.05

**Modular Home.** See Section 12.24.12.01

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

**Nonconforming Use** A building or land lawfully occupied by a use at the time of passage of this ordinance or amendment which does not conform after the passage of this ordinance or amendment with the use regulation of the district in which it is situated.

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

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

**Person.** In addition to an individual, includes the following terms: “firm”, “association”, “organization”, “partnership”, “trust”, “company”, or “corporation”.

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

**Sign.** Any device designed to inform or attract the attention of persons not on the premises on which the sign is located, provided, however, that the following shall not be included in the application of the regulations herein:

1. Signs not exceeding one (1) square foot in area and bearing only property numbers, post box numbers, name of occupants of premises, or other identification of premises not having commercial connotations;
2. Flags and insignia of any government except when displayed in connection with commercial promotion;
3. Legal notices, identification, information, or directional signs erected or required by governmental bodies.
4. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts, or moving lights; and
5. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.

**Special Exceptions.** A use that would not be appropriate generally or without restriction throughout the zoning district by which if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted by the Board of Adjustment when specific provision is made in the zoning district regulations.

**Street.** A right-of-way, dedicated to public use, which affords a primary means of access.

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

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

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

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

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

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

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

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

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

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