

THE LINCOLN COUNTY BOARD OF COMMISSIONERS was brought to order by the Chair, Tiffani Landeen, at 8:30 a.m. on June 22, 2021, with Commissioners Joel Arends, Jim C. Jibben, Michael Poppens, and Jim Schmidt present. Deputy Auditor, Shaun Feilmeier, served as Clerk of the Board. Chief Civil Deputy State's Attorney, William Golden, was also present.

ROUTINE BUSINESS:

MOTION by Poppens and seconded by Arends to approve agenda with a clarification on item number twelve under Regular Business as follows: Parcel 240.28.76.1000 is already surplusd but not appraised while the other parcels listed in said item have not been surplusd nor appraised. Arends: "Aye" Jibben: "Aye" Poppens: "Aye" Schmidt: "Aye" Landeen: "Aye". Motion carried.

Claims: \$957,249.42

GENERAL FUND: Midco, Phone/Video \$1,175.63; Argus Leader/Multimedia Holding, Minutes/Notices \$3,546.29; Metlife, Employee Life Insurance \$308.87; United Healthcare Premium Bill, Cobra Health Insurance \$1,467.15; Sdacc, Clerp Reimbursement \$267.28; Maxine Risty Court Reporting, Transcripts \$78.20; Eirinberg, James, Crt Appt Attny \$9,595.00; A To Z World Languages Inc, Interpreters \$85.20; Multi-Cultural Center Of Sf, Interpreters \$110.00; Jeff Larson Law Pc, Crt Appt Attny \$5,565.05; Certified Languages Internation, Interpreters \$69.30; Dakota Law Firm Prof Llc, Crt Appt Attny \$1,838.80; Strange, Farrell, Johnson & Bre, Crt Appt Attny \$1,734.83; Griesse Law Firm, Pc, Crt Appt Attny \$51.60; Olivier Miles Holtz, Llp, Crt Appt Attny \$557.75; Jurors, Fees, Mileage \$2,617.36; Walter, Max, Crt Appt Attny \$1,496.25; Riverside Technologies Inc, Supplies-Ink \$758.76; Thomson Reuters-West Publ Corp, Westlaw Database Charges \$493.16; Delta Dental, Cobra Dental Insurance \$179.78; Frantzen Reporting/Pgr8r Inc, Grand Jury/Transcripts \$584.00; Fidelity Security Life Ins Comp, Cobra Vision Insurance \$15.34; City Of Sf Public Works, Tipping Fee \$17.44; Midamerican Energy Co, Monthly Gas Usage-Crthse \$1,622.89; Sturdevant's Auto Parts, Battery/Repair # 16-2 \$148.66; Zee Medical Service, 1st Aid Supplies-Crthse \$107.30; Novak Sanitary Svc Corp, Garbage/Recycling \$308.31; G & R Controls Inc, Temp Sensor Alarm/Flters/Belts \$3,830.92; Prochem Dynamics Llc, Supplies-Cleaning \$713.25; Olson's Pest Technicians, Bi-Monthly Service \$375.00; The Tessman Company, Glyphosate/Herbicide \$236.00; Siteone Landscape Suppy, Llc, Poly Insert/Elbow/Nipple/N \$49.48; At&T Mobility, Mobile Internet \$2,264.12; Wash & Ride, Cash Washes \$5.75; Mcleod's Printing, Envelopes \$509.80; Shi International Corp, Multiple Windows Platforms \$66,881.50; Graybar Electric Co., Patch Panel Modular Unload \$55.60; Well365, Llc, Wellness Portal/Coaching \$1,300.00; Caliber Creative, Benefits Brochure Printing \$525.00; Optum Bank, Monthly Maint Fee \$63.25; Graham Tire Co Llc-Corp, Tires - #20-1 \$426.92; Two Way Solutions Inc, Impress Liion 2550mah Batt \$259.98; Pennington Co Jail, Prisoner Transport \$236.64; Dave's Service & Repair, Oil Change/Tow- Hit Deer \$287.75; Menards-East, 4-Shelf Units \$679.96; Jack's Uniforms & Equipment, Uniforms/Vests/Equip \$2,031.50; Lincoln Co Sheriff, Em Refund For Jail Brdng Fees \$190.00; Auto Dynamics Inc, Oil Change- #21-1 \$105.51; Distinct Auto Glass & Tires, Peel Tint Strip Off Windsh \$100.00; Autopros Tire & Service Center, Tire Repair # 21-1 \$23.82; Minnehaha County Jail, Prisoner Care \$4,817.98; B & E Autoworx Llc, Oil Changes- #20-1, 14-2 \$184.90; Silverstar Car Wash, Car Wash Memberships \$209.79; Stroschein, Leah, Travel-Meals/Lodging/Fuel \$257.04; Buddi Us Llc, Tagging Days \$3,212.00; Perry, Alan, Bls Cpr Class Instruction \$292.50; Sinning, Brenda, Bls Cpr Class Instruction \$357.50; Sanford Health, Autopsy \$2,381.39; Med-Star Paramedic Ambulance, Transports \$1,406.00; Minnehaha Co Regional Jdc, Med Svc/Comm Sprvn/Shltr/Chld \$21,190.78; Rosecrest Townhomes, County Assistance-Hlf \$600.00; Southeastern Behavioral Hlthcre, Mobile Crisis-May \$404.06; Lewis & Clark Behavioral Health, Bmi Intake \$184.00; Johnson Pllc, Katie, Mi Board-May \$4,831.20; Salem Qmhp, Karla, Mi Evals \$1,485.00; Loving, Philip, Mi Evals \$4,674.77; Lewno Law Office, Lucy M Lewno, Mi Board-Yankton \$176.51; Schmuck, Jan, Mi Hearing \$40.00; Avera Med Group Specialty Cln, Mi Hold \$67.66; Katterhagen, Mark, Mi Hearing \$18.00; Lockwood, Darcy, Mi Hearing \$18.00; Wagner, Heidi M, Mi Evals \$110.00; Miller, Francie, Mi Hearing \$104.00;

Anderson, Jennifer Marie, Mi Evals \$3,180.78; Ver Beek Law Prof Llc, Mi Board- May \$4,873.77; Imeg Corp, Project Costs \$6,530.84; Grainger, Rust Reformer/Anchor Posts \$145.98; Cintas, Mats \$136.94; Napa Auto & Truck Parts Of Sf, Fitting/Filters/U-Joint \$37.90; Benco Products Inc, Switched Shurflo 12v Pump \$130.40; Quadient Finance Usa, Inc, Postage/Supplies \$4,194.91
 HIGHWAYS: City Of Sf Public Works, Tipping Fee \$17.23; Concrete Materials, Asphalt \$454.14; Graham Tire Co Llc-Corp, Repairs- # 82 \$1,320.23; Midamerican Energy Co, Monthly Gas Usage-Hwy \$800.19; Sturdevant's Auto Parts, Repairs-# 11 \$63.18; Myrl & Roys Paving Inc, G2 Rap 58-28 \$133.13; Light And Siren, Reflector Combo Mounts \$536.00; Diamond Mowers Inc, Spring Rear Rtr/Rod Rotary \$207.63; Xcel Energy, Electricity-Hwy \$50.45; Midco, Phone/Video \$74.46; Imeg Corp, Project Costs \$28,687.47; Architecture Inc, Project # R2887.20 \$1,050.00; City Of Harrisburg, Pymt Hwy 110 & 123 Sgmnt/Ovrly \$200,000.00; City Of Tea, Pymt For Hwy 106 Segment \$150,000.00; Micheal's Purple Petunia, Pump Out Holding Tank \$140.00; Fluit, Terry, Travel-Meals \$34.00; Zee Medical Service, 1st Aid Supplies-Hwy \$80.60; Automatic Security Company Inc, Fire Sprinkler Device Issu \$125.00; Cole's Petroleum Inc, Fuel \$14,717.13; Novak Sanitary Svc Corp, Garbage/Recycling-Hwy \$506.25; Fastenal Company, Supplies-Hand Cleaner \$64.93; Canton Home & Farm Supply, Wash Brush, Hardwood Handl \$21.67; At&T Mobility, Mobile Internet \$95.50; Napa Auto & Truck Parts Of Sf, Fitting/Filters/U-Joint \$157.43; Fidelity Security Life Ins Comp, Cobra Vision Insurance-Mr \$7.67; Prochem Dynamics Llc, Supplies-Cleaning \$125.50; Transource, Broom Rental \$800.00; Verizon Connect Nwf, Inc, Monthly Service-May \$485.70; Cintas, Mats/Towels/Towel Can \$68.04; Metlife, Employee Life Insurance \$47.84; Delle, Rihannon M, Travel-Mileage \$82.32
 911: Two Way Solutions Inc, Tied Up Coax/License Renewal \$679.99; Centurylink, Backup Lines \$149.90; Midco, Phone/Video \$148.09; Vast Broadband, 911 Circuits \$971.97; Innovative Office Solutions Llc, Supplies-Folders/Tape \$49.05; Metlife, Employee Life Insurance \$32.89; Builders Electric Llc, 911 Remodel \$26,473.51; Russ Bassett Corp, 911 Furniture/Flooring \$77,564.25
 EMS: Midco, Phone/Video \$59.75; Electrical Engineer & Equip Co, Repair Generator \$1,617.85; Metlife, Employee Life Insurance \$1.20
 AIRPORT: A-1 Septic Tank & Excavating, Pump Out Hold Tank \$300.00
 24/7: Midco, Phone/Video \$20.32; Pharm Chem Inc, Sweat Patch Analysis \$571.00; Redwood Toxicology Laboratory, Panel 6 Tests \$261.00; Metlife, Employee Life Insurance \$2.99
 MODERN/PRESERV: Cdw-G Inc, Zebra Printer Stand \$1,048.58
 DEBT SERVICE-TIF #8: City Of Harrisburg, Tif # 8 Distribution Jan-J \$141,376.94
 EMPLOYEE GRP HEALTH: United Healthcare Premium Bill, Employee Health Insurance \$122,858.54

Payroll: \$298,385.87

Commissioner's \$4,664.00; FICA 348.07, Medicare 81.41
 Auditor's \$10,487.20; FICA 552.93, Medicare 129.31, SDRS 629.23
 Treasurer's \$16,726.43; FICA 954.91, Medicare 223.33, SDRS 1,003.58
 States Attorney's \$41,050.81; FICA 2,281.26, Medicare 533.50, SDRS 2,404.28
 Gen Gov Bldg \$13,788.41; FICA 724.89, Medicare 169.54, SDRS 801.63
 DOE \$28,652.82; FICA 1,612.10, Medicare 377.02, SDRS 1,670.06
 ROD \$6,382.26; FICA 338.63, Medicare 79.20, SDRS 343.10
 VSO \$2,071.74; FICA 105.33, Medicare 24.63, SDRS 124.30
 GIS \$4,902.40; FICA 264.46, Medicare 61.85, SDRS 294.14
 IT \$7,577.03; FICA 448.68, Medicare 104.93, SDRS 454.62
 HR \$4,507.20; FICA 262.48, Medicare 61.38, SDRS 270.43
 WIC \$316.48; FICA 19.62, Medicare 4.59
 Sheriff's \$72,667.70 FICA 4,275.59, Medicare 999.91, SDRS 5,198.36
 County 4-H \$3,928.80; FICA 236.28, Medicare 55.26, SDRS 187.73
 Weed Control \$4,188.01; FICA 259.66, Medicare 60.72, SDRS 251.28

P & Z \$10,953.60; FICA 662.97, Medicare 155.05, SDRS 657.21
Highway \$34,364.53; FICA 1,910.15, Medicare 446.74, SDRS 1,995.59
Communications \$26,446.93; FICA 1,528.49, Medicare 357.48, SDRS 1,586.81
EM MGMT \$2,945.40; FICA 159.87, Medicare 37.39, SDRS 176.72
24/7 \$1,764.12; FICA 102.53, Medicare 23.98, SDRS 141.13

Reports:

May 2021 Auditor's Account with the County Treasurer was presented totaling \$27,532,189.22 as follows: Total amount of deposits in banks \$19,710,503.51; Total amount of actual cash \$7,049.12; Total amount of checks and drafts in Treasurer's Possession not exceeding three days \$195,076.22; Total Cash Items \$2,967.38; Funds Invested \$ 7,616,592.99.

May 2021 Expenditures Report and May 2021 Revenue & Expense Report were presented.

Notice of hearing from All Seasons Storage concerning a Conditional Use Permit for outdoor storage of RVs and campers was presented.

May 2021 Clerk of Courts report was presented totaling \$52,253.47.

Mileage reports were presented as follows: May 2021 Sheriff's Office Patrol mileage, May 2021 #100 Highway mileage.

Letter from South Dakota Department of Agriculture and Natural Resources concerning Dakota Plains Dairy Site #2 Separation Facilities revised plans and specifications review was presented.

Notice of disinterment was presented.

May 2021 Veterans Service Office report was presented.

CONSENT AGENDA:

MOTION by Schmidt and seconded by Jibben to approve Consent Agenda items. Arends: "Aye"

Jibben: "Aye" Poppens: "Aye" Schmidt: "Aye" Landeen: "Aye". Motion carried.

MOTION by Schmidt and seconded by Jibben to approve Commission Minutes: 6/8/2021. Arends:

"Aye" Jibben: "Aye" Poppens: "Aye" Schmidt: "Aye" Landeen: "Aye". Motion carried.

RESOLUTION: BE IT RESOLVED to approve abatement of property taxes in the amount of \$1,061.12 for parcel number 100.49.26.D100 for SD Department of Game, Fish & Parks for the tax year 2020 payable 2021 due to parcel should have been exempt. MOTION by Schmidt and seconded by Jibben.

Arends: "Aye" Jibben: "Aye" Poppens: "Aye" Schmidt: "Aye" Landeen: "Aye". Motion carried.

RESOLUTION: BE IT RESOLVED to approve abatement of property taxes in the amount of \$1,222.30 for parcel number 100.50.18.F300 for City of Sioux Falls for tax year 2020 payable 2021 due to parcel being purchased by City of Sioux Falls on 06/11/2020. MOTION by Schmidt and seconded by Jibben.

Arends: "Aye" Jibben: "Aye" Poppens: "Aye" Schmidt: "Aye" Landeen: "Aye". Motion carried.

RESOLUTION: BE IT RESOLVED to approve abatement of property taxes in the amount of \$1,942.92 for parcel number 100.50.18.F200 for City of Sioux Falls for tax year 2020 payable 2021 due to parcel being purchased by City of Sioux Falls on 07/02/2020. MOTION by Schmidt and seconded by Jibben.

Arends: "Aye" Jibben: "Aye" Poppens: "Aye" Schmidt: "Aye" Landeen: "Aye". Motion carried.

RESOLUTION: BE IT RESOLVED to approve abatement of property taxes in the amount of \$1,523.92 for parcel number 097.50.16.A101 for Michael & Sheila Pederson for tax year 2020 payable 2021 due to veteran exemption. MOTION by Schmidt and seconded by Jibben. Arends: "Aye" Jibben: "Aye"

Poppens: "Aye" Schmidt: "Aye" Landeen: "Aye". Motion carried.

RESOLUTION: BE IT RESOLVED to approve abatement of property taxes in the amount of \$34.74 for parcel number 100.49.66.3030 for tax year 2020 payable 2021 due to State took possession 01/14/2019. MOTION by Schmidt and seconded by Jibben. Arends: “Aye” Jibben: “Aye” Poppens: “Aye” Schmidt: “Aye” Landeen: “Aye”. Motion carried.

RESOLUTION: BE IT RESOLVED to approve Refund of property taxes in the amount of \$31.62 for parcel number 100.49.62.B100 for Kevin & Nancy Oaks for tax year 2019 payable 2020 due to State took possession on 10/24/2018. MOTION by Schmidt and seconded by Jibben. Arends: “Aye” Jibben: “Aye” Poppens: “Aye” Schmidt: “Aye” Landeen: “Aye”. Motion carried.

RESOLUTION: BE IT RESOLVED to approve refund of property taxes in the amount of \$27.08 for parcel number 100.49.62.4010 for Lloyd & Shirley Oppold for tax year 2019 payable 2020 due to State took possession on 10/24/2018. MOTION by Schmidt and seconded by Jibben. Arends: “Aye” Jibben: “Aye” Poppens: “Aye” Schmidt: “Aye” Landeen: “Aye”. Motion carried.

RESOLUTION: BE IT RESOLVED to approve refund of property taxes in the amount of \$25.84 for parcel number 100.49.62.4030 for Lloyd & Shirley Oppold for tax year 2019 payable 2020 due to State took possession on 10/24/2018. MOTION by Schmidt and seconded by Jibben. Arends: “Aye” Jibben: “Aye” Poppens: “Aye” Schmidt: “Aye” Landeen: “Aye”. Motion carried.

RESOLUTION: BE IT RESOLVED to declare as surplus and remove from inventory the following items from Buildings & Grounds: Item 4167, upright vacuum, Clark, inoperable; Item 6330, upright vacuum, Hoover Hushtone, inoperable. MOTION by Schmidt and seconded by Jibben. Arends: “Aye” Jibben: “Aye” Poppens: “Aye” Schmidt: “Aye” Landeen: “Aye”. Motion carried.

RESOLUTION: BE IT RESOLVED to approve the hire of Richard Bietzel as seasonal Highway Equipment Operator at \$18.07/hr (Grade 104, Step 4) effective 6.7.2021. MOTION by Schmidt and seconded by Jibben. Arends: “Aye” Jibben: “Aye” Poppens: “Aye” Schmidt: “Aye” Landeen: “Aye”. Motion carried.

OPPORTUNITY FOR PUBLIC COMMENT:

A Tea area resident commented about the 2022 budget especially concerning Commission support staff, Opt Outs, and bonds.

A Harrisburg area resident commented about the process to appeal the County Board of Equalization decision. This individual also made economic predictions and requested to be represented by the State’s Attorney Office.

COMMISSIONER REPORT (INFORMATIONAL ONLY):

None.

REGULAR BUSINESS:

COMMISSIONER BRIEFING: Commissioner Arends offered a brief history of the Courthouse Improvement Advisory Committee, the problems it was set to solve, and its methodology. Arends continued to state the committee’s three recommendations to the Board which he then motioned.

RESOLUTION: BE IT RESOLVED to authorize the State’s Attorney Office to enter into due diligence discussions with Darcy Johnson to explore building a Justice Center west of Canton on land that he owns and to create a study group to determine the need and feasibility of a jail or regional jail. MOTION by Arends and seconded by Jibben. Arends: “Aye” Jibben: “Aye” Poppens: “Nay” Schmidt: “Aye” Landeen: “Aye”. Motion carried.

COMMISSIONER BRIEFING: William Golden, Chief Civil Deputy State's Attorney, informed the Board of the necessary facts pertaining to the lease agreement with Minnehaha County for a Courtroom.

RESOLUTION: BE IT RESOLVED to approve and authorize the Chair to execute the Lease Agreement with Minnehaha County for courtroom space for \$8,333.00 per month. MOTION by Schmidt and seconded by Poppens. Arends: "Nay" Jibben: "Aye" Poppens: "Aye" Schmidt: "Aye" Landeen: "Aye". Motion carried.

SECOND READING & PUBLIC HEARING was held for an Ordinance of Lincoln County to Regulate Medical Cannabis within Lincoln County. William Golden, Chief Civil Deputy State's Attorney, explained the ordinance. Those in favor of the ordinance spoke of the benefit of medical cannabis and offered suggestions for improvements. None spoke in opposition to the ordinance. The Board discussed changes to be made to the ordinance and directed a new draft to be addressed at a second public reading on July sixth with discussed changes made.

RESOLUTION: BE IT RESOLVED to table an Ordinance of Lincoln County to Regulate Medical Cannabis within Lincoln County until July 6, 2021. MOTION by Schmidt and seconded by Arends. Arends: "Aye" Jibben: "Aye" Poppens: "Aye" Schmidt: "Aye" Landeen: "Aye". Motion carried.

SECOND READING & PUBLIC HEARING for a Temporary Ordinance Regarding the Issuance of Local Medical Cannabis Establishment Permits. Toby Brown, Planning & Zoning Director, explained the ordinance and answered questions. Those who spoke in favor also suggested changes. None spoke in opposition. Brown commented that it may be best to pass this ordinance and address changes at a later date and that vertical integration could be addressed with a Conditional Use Permit.

A TEMPORARY ORDINANCE REGARDING THE ISSUANCE OF LOCAL MEDICAL CANNABIS ESTABLISHMENT PERMITS.

WHEREAS, a local government may enact an ordinance not in conflict with SDCL Chapter 34- 20G, governing the time, place, manner, and number of medical cannabis establishments in the locality. A local government may establish civil penalties for violation of an ordinance governing the time, place, and manner of a medical cannabis establishment that may operate in the locality. A local government may require a medical cannabis establishment to obtain a local license, zoning permit, or registration to operate, and may charge a reasonable fee for the local license, zoning permit, or registration.

WHEREAS, Lincoln County, SD ("County"), makes a preliminary finding that the County's current regulations and controls may not adequately address the unique needs and impacts of medical cannabis establishments as defined in SDCL 34-20G-1;

WHEREAS, medical cannabis state laws under SDCL 34-20G are effective July 1, 2021. The South Dakota Department of Health shall promulgate rules pursuant to chapter 1-26 not later than October 29, 2021, as defined by SDCL 34-20G-72. During the time between July 1, 2021 and potentially as late as October 29, 2021, local units of government will not yet know standards for medical cannabis and will not be able to adequately assess the local zoning and licensing requirements necessary to approve local permits and to better ensure applicants have a more predictable permitting process and avoid stranded investments.

WHEREAS, the County hereby exercises its authority under SDCL 11-2-10 and SDCL 7-18A-8, to establish a temporary ordinance regarding the issuance of any local permits/licenses for medical cannabis establishments within the County; and

WHEREAS, the County finds that the following ordinance is necessary to protect and immediately preserve the public health, safety, welfare, peace and support of the county government and its existing public institutions.

NOW, THEREFORE, BE IT ORDAINED BY LINCOLN COUNTY, SD:

Section 1. Amendment to Lincoln County Zoning Ordinance

A. Section 26.02 of the 2009 Revised Zoning Ordinance for Lincoln County is hereby amended by adding the following terms and definitions in alphabetical order:

CANNABIS PRODUCTS. Any concentrated cannabis, cannabis extracts, and products that are infused with cannabis or an extract thereof, and are intended for use or consumption by humans. The term includes edible cannabis products, beverages, topical products, ointments, oils, and tinctures.

CANNABIS PRODUCT MANUFACTURING FACILITY. An entity registered with the South Dakota Department of Health pursuant to SDCL Chapter 34-20G that acquires, possesses, manufactures, delivers, transfers, transports, supplies, or sells cannabis products to a medical cannabis dispensary.

CANNABIS TESTING FACILITY OR TESTING FACILITY. An independent entity registered with the South Dakota Department of Health pursuant to SDCL Chapter 34-20G to analyze the safety and potency of cannabis.

CANNABIS CULTIVATION FACILITY. An entity registered with the South Dakota Department of Health pursuant to SDCL Chapter 34-20G that acquires, possesses, cultivates, delivers, transfers, transports, supplies, or sells cannabis and related supplies to a medical cannabis establishment.

MEDICAL CANNABIS DISPENSARY OR DISPENSARY. An entity registered with the South Dakota Department of Health pursuant to SDCL Chapter 34-20G that acquires, possesses, stores, delivers, transfers, transports, sells, supplies, or dispenses cannabis, cannabis products, paraphernalia, or related supplies and educational materials to cardholders.

B. Section 3.03 of the 2009 Revised Zoning Ordinance for Lincoln County is hereby amended by adding a new subsection H. as follows:

H. Cannabis cultivation facility.

1. The facility shall provide proof of registration with the South Dakota Department of Health or proof that registration has been sought and is pending approval, and shall at all times maintain a valid, accurate, and up to date registration with the South Dakota Department of Health. Should registration be denied or revoked at any time, any permitted special use or conditional use shall immediately become void.

2. The facility shall at all times operate in compliance with all South Dakota Department of Health regulations pertaining to such facilities.

3. The facility shall not be operated or maintained on a parcel within 1,000 feet, measured by a straight line in all directions, without regard to intervening structures or objects, from the nearest point on the property line of a parcel containing a public, private or parochial school or a day-care center.

4. The facility must operate entirely within an indoor, enclosed, and secure facility.

5. The facility shall submit a disposal plan to, and obtain approval from the Planning Director or his or her designee. Medical cannabis remnants and bi-products shall be disposed of according to an approved plan, and shall not be placed within an exterior refuse container.

6. There shall be no emission of dust, fumes, vapors, or odors which can be seen, smelled, or otherwise perceived from beyond the lot line for the property where the facility is operating.

7. No one under the age of twenty-one (21) shall be permitted in the facility.

8. No retail sales of medical cannabis shall be permitted on the premises of the facility.

9. No use of medical cannabis shall be permitted on the premises of the facility.

10. The facility shall submit a security plan to, and obtain approval from the Planning Director or his or her designee. The facility shall demonstrate how it will maintain effective security and control. The security plan shall specify the type and manner of 24-hour security, tracking, recordkeeping, record retention, and surveillance system to be utilized in the facility.

11. The facility shall submit a site plan for approval by the Planning Director or his or her designee and a Floor Plan for approval by the Planning Director or his or her designee. The floor plan shall identify internal security measures. All medical cannabis product, byproduct, and waste shall be stored in an interior secure vault or receptacle in such a manner as to protect against improper dissemination.

C. Section 6.03 of the 2009 Revised Zoning Ordinance for Lincoln County is hereby amended by adding a new subsection E. as follows:

E. Medical cannabis dispensary.

1. The facility shall provide proof of registration with the South Dakota Department of Health or proof that registration has been sought and is pending approval, and shall at all times maintain a valid, accurate, and up to date registration with the South Dakota Department of Health. Should registration be denied or revoked at any time, any permitted special use or conditional use shall immediately become void.
2. The facility shall at all times operate in compliance with all South Dakota Department of Health regulations pertaining to such facilities.
3. The facility shall not be operated or maintained on a parcel within 1,000 feet, measured by a straight line in all directions, without regard to intervening structures or objects, from the nearest point on the property line of a parcel containing a public, private or parochial school or a day-care center.
4. The facility must operate entirely within an indoor, enclosed, and secure facility. No exterior sales, and no sidewalk displays, shall be permitted. No drive-through, drop-off, or pick-up services shall be permitted.
5. The facility shall be limited to hours of operation not earlier than 8:00 A.M. and not later than 10:00 P.M.
6. The facility shall submit a disposal plan to, and obtain approval from the Planning Director or his or her designee. Medical cannabis remnants and bi-products shall be disposed of according to an approved plan, and shall not be placed within an exterior refuse container.
7. There shall be no emission of dust, fumes, vapors, or odors which can be seen, smelled, or otherwise perceived from beyond the lot line for the property where the facility is operating.
8. No one under the age of eighteen (18) shall be permitted in the facility.
9. No use of medical cannabis shall be permitted on the premises of the facility.
10. The facility shall submit a security plan to, and obtain approval from the Planning Director or his or her designee. The facility shall demonstrate how it will maintain effective security and control. The security plan shall specify the type and manner of 24-hour security, tracking, recordkeeping, record retention, and surveillance system to be utilized in the facility.
11. The facility shall submit a site plan for approval by the Planning Director or his or her designee and a Floor Plan for approval by the Planning Director or his or her designee. The floor plan shall identify internal security measures. All medical cannabis product, byproduct, and waste shall be stored in an interior secure vault or receptacle in such a manner as to protect against improper dissemination.

D. Section 7.03 of the 2009 Revised Zoning Ordinance for Lincoln County is hereby amended by adding a new subsection F. as follows:

F. Cannabis testing facility.

1. The facility shall provide proof of registration with the South Dakota Department of Health or proof that registration has been sought and is pending approval, and shall at all times maintain a valid, accurate, and up to date registration with the South Dakota Department of Health. Should registration be denied or revoked at any time, any permitted special use or conditional use shall immediately become void.
2. The facility shall at all times operate in compliance with all South Dakota Department of Health regulations pertaining to such facilities.
3. The facility shall not be operated or maintained on a parcel within 1,000 feet, measured by a straight line in all directions, without regard to intervening structures or objects, from the nearest point on the property line of a parcel containing a public, private or parochial school or a day-care center.
4. The facility must operate entirely within an indoor, enclosed, and secure facility.
5. The facility may not operate on the same site as a Cannabis Cultivation Facility or Cannabis Product Manufacturing Facility.
6. The facility shall submit a disposal plan to, and obtain approval from the Planning Director or his or her designee. Medical cannabis remnants and bi-products shall be disposed of according to an approved plan, and shall not be placed within an exterior refuse container.
7. There shall be no emission of dust, fumes, vapors, or odors which can be seen, smelled, or otherwise perceived from beyond the lot line for the property where the facility is operating.

8. The facility shall submit a security plan to, and obtain approval from the Planning Director or his or her designee. The facility shall demonstrate how it will maintain effective security and control. The security plan shall specify the type and manner of 24-hour security, tracking, recordkeeping, record retention, and surveillance system to be utilized in the facility.

9. The facility shall submit a site plan for approval by the Planning Director or his or her designee and a Floor Plan for approval by the Planning Director or his or her designee. The floor plan shall identify internal security measures. All medical cannabis product, byproduct, and waste shall be stored in an interior secure vault or receptacle in such a manner as to protect against improper dissemination.

E. Section 7.03 of the 2009 Revised Zoning Ordinance for Lincoln County is hereby amended by adding a new subsection G. as follows:

G. Cannabis cultivation facility.

1. The facility shall provide proof of registration with the South Dakota Department of Health or proof that registration has been sought and is pending approval, and shall at all times maintain a valid, accurate, and up to date registration with the South Dakota Department of Health. Should registration be denied or revoked at any time, any permitted special use or conditional use shall immediately become void.

2. The facility shall at all times operate in compliance with all South Dakota Department of Health regulations pertaining to such facilities.

3. The facility shall not be operated or maintained on a parcel within 1,000 feet, measured by a straight line in all directions, without regard to intervening structures or objects, from the nearest point on the property line of a parcel containing a public, private or parochial school or a day-care center.

4. The facility must operate entirely within an indoor, enclosed, and secure facility.

5. The facility may not operate on the same site as a Medical Cannabis Dispensary.

6. The facility shall submit a disposal plan to, and obtain approval from the Planning Director or his or her designee. Medical cannabis remnants and bi-products shall be disposed of according to an approved plan, and shall not be placed within an exterior refuse container.

7. There shall be no emission of dust, fumes, vapors, or odors which can be seen, smelled, or otherwise perceived from beyond the lot line for the property where the facility is operating.

8. No one under the age of twenty-one (21) shall be permitted in the facility.

9. No retail sales of medical cannabis shall be permitted on the premises of the facility.

10. No use of medical cannabis shall be permitted on the premises of the facility.

11. The facility shall submit a security plan to, and obtain approval from the Planning Director or his or her designee. The facility shall demonstrate how it will maintain effective security and control. The security plan shall specify the type and manner of 24-hour security, tracking, recordkeeping, record retention, and surveillance system to be utilized in the facility.

12. The facility shall submit a site plan for approval by the Planning Director or his or her designee and a Floor Plan for approval by the Planning Director or his or her designee. The floor plan shall identify internal security measures. All medical cannabis product, byproduct, and waste shall be stored in an interior secure vault or receptacle in such a manner as to protect against improper dissemination.

F. Section 7.03 of the 2009 Revised Zoning Ordinance for Lincoln County is hereby amended by adding a new subsection H. as follows:

H. Cannabis product manufacturing facility.

1. The facility shall provide proof of registration with the South Dakota Department of Health or proof that registration has been sought and is pending approval, and shall at all times maintain a valid, accurate, and up to date registration with the South Dakota Department of Health. Should registration be denied or revoked at any time, any permitted special use or conditional use shall immediately become void.

2. The facility shall at all times operate in compliance with all South Dakota Department of Health regulations pertaining to such facilities.

3. The facility shall not be operated or maintained on a parcel within 1,000 feet, measured by a straight line in all directions, without regard to intervening structures or objects,

from the nearest point on the property line of a parcel containing a public, private or parochial school or a day-care center.

4. The facility must operate entirely within an indoor, enclosed, and secure facility.

5. The facility may not operate on the same site as a Cannabis Testing Facility or a Cannabis Cultivation Facility.

6. The facility shall submit a disposal plan to, and obtain approval from the Planning Director or his or her designee. Medical cannabis remnants and bi-products shall be disposed of according to an approved plan, and shall not be placed within an exterior refuse container.

7. There shall be no emission of dust, fumes, vapors, or odors which can be seen, smelled, or otherwise perceived from beyond the lot line for the property where the facility is operating.

8. No one under the age of twenty-one (21) shall be permitted in the facility.

9. No retail sales of medical cannabis shall be permitted on the premises of the facility.

10. No use of medical cannabis shall be permitted on the premises of the facility.

11. The facility shall submit a security plan to, and obtain approval from the Planning Director or his or her designee. The facility shall demonstrate how it will maintain effective security and control. The security plan shall specify the type and manner of 24-hour security, tracking, recordkeeping, record retention, and surveillance system to be utilized in the facility.

12. The facility shall submit a site plan for approval by the Planning Director or his or her designee and a Floor Plan for approval by the Planning Director or his or her designee. The floor plan shall identify internal security measures. All medical cannabis product, byproduct, and waste shall be stored in an interior secure vault or receptacle in such a manner as to protect against improper dissemination.

13. The facility shall submit a fire prevention plan and a floor plan for review and acceptance by the Lincoln County Emergency Management Director or his or her designee.

Section 2. Immediate Effect.

This ordinance is necessary to protect and immediately preserve the public health, safety, welfare, peace, and support of the county government and its existing public institutions pursuant to SDCL 11-2-10 and SDCL 7-18A-8.

BE IT FURTHER ORDAINED BY LINCOLN COUNTY, SD, that if any section, subsection, sentence, clause or phrase of this Ordinance should be held invalid, the invalidity of such section, subsection, sentence, clause or phrase shall not affect any other section, subsection, sentence, clause or phrase of the remainder of this Ordinance.

MOTION by Arends and seconded by Jibben. Arends: "Aye" Jibben: "Aye" Poppens: "Aye" Schmidt: "Aye" Landeen: "Aye". Motion carried.

SECOND READING & PUBLIC HEARING for an Ordinance of Lincoln County, SD, rezoning the property legally described as Tract 2C, Kroger's Addition, NW1/4, Section 28-T98N-R51W from the A-1 Agricultural District to the PD Planned Development District (Good Earth Farm) and amending the Official Zoning Map of Lincoln County. Toby Brown, Planning & Zoning Director, explained the application, mixed uses, and offered to answer questions. The applicant explained their business. Those in favor commented that it was a good thing that the County has an avenue for this type of business to exist. None spoke in opposition to this rezone.

AN ORDINANCE AMENDING THE 2009 REVISED ZONING ORDINANCE FOR LINCOLN COUNTY BY REZONING TRACT 2C, KROGER'S ADDITION, NW1/4, SECTION 28-T98N-R51W, GRANT TOWNSHIP, LINCOLN COUNTY, SD, FROM THE A-1 AGRICULTURAL DISTRICT TO THE GOOD EARTH FARM PLANNED DEVELOPMENT DISTRICT.

BE IT ORDAINED BY LINCOLN COUNTY, SD:

Section 1. Tract 2C, Kroger's Addition, NW1/4, Section 28-T98N-R51W, Grant Township, Lincoln County, SD, is hereby rezoned from the A-1 Agricultural District to the Good Earth Farm Planned Development District, and the official zoning map referred to in Section 2.03 of the 2009 Revised Zoning

Ordinance for Lincoln County is amended to include the property in the Good Earth Farm Planned Development District.

Section 2. That Article 10.00 of the 2009 Revised Zoning Ordinance for Lincoln County is hereby amended by adding a new subsection to read:

10.0606 Good Earth Farm Planned Development District. The regulations set forth herein or elsewhere in these regulations are the district regulations in the Good Earth Farm Planned Development District.

A. Uses Permitted. A building or premises shall be permitted to be used for the following purposes:

1. Agriculture.
2. Single-family dwelling.
3. Private campground.
4. Garden center.
5. Roadside stand.
6. Fireworks sales.
7. Private outdoor recreation facility.
8. Bed and breakfast establishment.
9. Nursery or greenhouse.
10. Retail sales and trade.
11. On-sale alcohol establishment.
12. Hotel or motel.
13. Events center.

B. Accessory Uses. Accessory uses and buildings permitted are those detached accessory buildings and uses customarily incidental to any use permitted use in the district.

C. Parking Regulations. Parking shall be regulated in conformance with the provisions of Article 15.00.

D. Sign Regulations. Signs shall be regulated in conformance with the provisions of the C zoning district.

E. Density, Area, Yard and Height Regulations. The same requirements shall apply as in the C zoning district.

F. Other Regulations.

1. The residential density shall not exceed one single-family dwelling.
2. When possible, natural storm water drainage shall be preserved. Storm water shall be retained on-site in either existing or new wetlands or retention pond.
3. An access management plan shall be submitted for county review and approval.
4. The hours of operation shall be between 7:00 a.m. and 11:00 p.m. No outdoor music shall be allowed after 10:00 p.m.
5. Lighting used for outdoor illumination shall be installed to deflect light away from adjoining property. The sources of light shall be hooded or controlled so light does not shine upward nor light adjoining property.
6. Prior to future additions, a Final Development Plan shall be presented to the Planning Commission for their approval.

MOTION by Jibben and seconded by Schmidt. Arends: "Aye" Jibben: "Aye" Poppens: "Aye" Schmidt: "Aye" Landeen: "Aye". Motion carried.

SECOND READING & PUBLIC HEARING for an Ordinance of Lincoln County, SD, rezoning the property legally described as SW1/4 (Ex. H-1), Section 17-T98N-R50W from the A-1 Agricultural District to the PD Planned Development District (I-29 Ag and Industrial Park) and amending the Official Zoning Map of Lincoln County. Toby Brown, Planning & Zoning Director, explained the application, mixed use development, and answered questions. The applicant, lead engineer, and potential tenant explained the project extensively. Those in favor spoke to the need for economic development, proximity to interstate and State highway, increased tax base, and communication efforts of applicant. Those in opposition commented on drainage concerns and township road damage.

AN ORDINANCE AMENDING THE 2009 REVISED ZONING ORDINANCE FOR LINCOLN COUNTY BY REZONING THE SW1/4 (EX. H-1), SECTION 17-T98N-R50W, LYNN TOWNSHIP, LINCOLN COUNTY, SD, FROM THE A-1 AGRICULTURAL DISTRICT TO THE I-29 AG AND INDUSTRIAL PARK PLANNED DEVELOPMENT DISTRICT.

BE IT ORDAINED BY LINCOLN COUNTY, SD:

Section 1. The SW1/4 (Ex. H-1), Section 17-T98N-R50W, Lynn Township, Lincoln County, SD, is hereby rezoned from the A-1 Agricultural District to the I-29 Ag and Industrial Park Planned Development District, and the official zoning map referred to in Section 2.03 of the 2009 Revised Zoning Ordinance for Lincoln County is amended to include the property in the I-29 Ag and Industrial Park Planned Development District.

Section 2. That Article 10.00 of the 2009 Revised Zoning Ordinance for Lincoln County is hereby amended by adding a new subsection to read:

10.0607 I-29 Ag and Industrial Park Planned Development District. The regulations set forth herein or elsewhere in these regulations are the district regulations in the I-29 Ag and Industrial Park Planned Development District.

(1) Subarea A (Tract 1).

A. Uses Permitted. A building or premises shall be permitted to be used for the following purposes:

1. Those uses allowed as permissive, permitted special and conditional in the C zoning district, except warehousing may exceed 10,000 sq. ft.

B. Accessory Uses. Accessory uses and buildings permitted are those detached accessory buildings and uses customarily incidental to any use permitted use in the district.

C. Parking Regulations. Parking shall be regulated in conformance with the provisions of Article 15.00.

D. Sign Regulations. Signs shall be regulated in conformance with the provisions of the C zoning district.

E. Density, Area, Yard and Height Regulations. The same requirements shall apply as in the C zoning district.

F. Other Regulations.

1. When possible, natural storm water drainage shall be preserved. Storm water shall be retained on-site in either existing or new wetlands or retention pond.

2. A site landscape improvement plan for Subarea A shall be submitted with the final development plan for county review and approval and include plant material selections and locations for trees, shrubs, berms, and fencing.

3. Outside storage of any materials, supplies, or products shall not be permitted within any required setback or buffer area and shall be properly screened.

4. Lighting fixtures used to illuminate signs, parking areas, or for other purposes shall be so arranged that the source of light does not shine directly into adjacent properties or into traffic.

5. An access management plan shall be submitted concurrent with the final development plan for county review and approval.

6. Prior to issuance of a building permit, a final development plan shall be presented to the Planning Commission for their approval.

(2) Subarea B (Tract 2).

A. Uses Permitted. A building or premises shall be permitted to be used for the following purposes:

1. Those uses allowed as permissive, permitted special and conditional in the C, I-1, and I-2 zoning districts, except warehousing may exceed 10,000 sq. ft.

B. Accessory Uses. Accessory uses and buildings permitted are those detached accessory buildings and uses customarily incidental to any use permitted use in the district.

C. Parking Regulations. Parking shall be regulated in conformance with the provisions of Article 15.00.

D. Sign Regulations. Signs shall be regulated in conformance with the provisions of the C and I zoning districts.

E. Density, Area, Yard and Height Regulations. The same requirements shall apply as in the I-2 zoning district.

F. Other Regulations.

1. When possible, natural storm water drainage shall be preserved. Storm water shall be retained on-site in either existing or new wetlands or retention pond.
2. A minimum buffer of 25-feet shall be required around the entire perimeter of Subarea B. The buffer shall contain or shall be planted with trees and shrubs of sufficient density and of sufficient height (but in no case less than 6-feet high at the time of planting) to afford adequate visual and noise protection. All screen planting shall be maintained in a clean and neat condition so as to accomplish its purpose continuously.
3. Outside storage of any materials, supplies, or products shall not be permitted within any required setback or buffer area and shall be properly screened.
4. Lighting fixtures used to illuminate signs, parking areas, or for other purposes shall be so arranged that the source of light does not shine directly into adjacent properties or into traffic.
5. An access management plan shall be submitted concurrent with the final development plan for county review and approval.
6. Prior to issuance of a building permit, a final development plan shall be presented to the Planning Commission for their approval.

MOTION by Schmidt and seconded by Arends. Arends: "Aye" Jibben: "Nay" Poppens: "Nay" Schmidt: "Aye" Landeen: "Aye". Motion carried.

COMMISSIONER BRIEFING: Toby Brown, Planning & Zoning Director, introduced the Preliminary Plan of I-29 Ag and Industrial Park which was presented by the applicant. Brown also explained the process of plan approvals.

MOTION by Schmidt and seconded by Arends to approve the Preliminary Plan of I-29 Ag and Industrial Park. Motion withdrawn.

MOTION by Arends and seconded by Jibben to approve Preliminary Plan of I-29 Ag and Industrial Park with its final plan. Motion withdrawn.

MOTION by Arends and seconded by Poppens to approve Preliminary Plan of I-29 Ag and Industrial Park conditional to final development plans reviewed and presented for approval to the Board of County Commissioners with staff recommendation. Motion withdrawn.

Commissioner Schmidt left at 11:25 a.m.

RESOLUTION: BE IT RESOLVED to table the Preliminary Plan of I-29 Ag and Industrial Park.

MOTION by Arends and seconded by Poppens. Arends: "Aye" Jibben: "Aye" Poppens: "Aye" Landeen: "Aye". Motion carried.

Commissioner Schmidt returned at 11:29 a.m.

SECOND READING & PUBLIC HEARING was held for an Ordinance of Lincoln County titled: Enacting the 2021 Flood Damage Protection Ordinance for Lincoln County and Repealing the 2011 Floodplain Management Ordinance as Amended. Jon Peters, Flood Plain Administrator, explained the ordinance and answered questions.

AN ORDINANCE ENACTING THE 2021 FLOOD DAMAGE PROTECTION ORDINANCE FOR LINCOLN COUNTY AND REPEALING THE 2011 FLOODPLAIN MANAGEMENT ORDINANCE AS AMENDED.

WHEREAS, The flood hazard areas of Lincoln County are subject to periodic inundation which results in the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.

WHEREAS, these flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, flood proofed or otherwise protected from flood damage; and

WHEREAS, the Legislature of the State of South Dakota has in SDCL §§ 11-2-13 delegated the authority to adopt regulations designed to minimize flood losses to local governmental units; and

WHEREAS, the enactment and implementation of floodplain regulations is required for participation in the National Flood Insurance Program;

NOW, THEREFORE, BE IT ORDAINED by the Lincoln County Board of Commissioners that the 2021 Flood Damage Protection Ordinance for Lincoln County is hereby adopted;

BE IT FURTHER ORDAINED that the 2011 Floodplain Management Ordinance, as amended, is hereby repealed;

BE IT FURTHER ORDAINED that copies of the 2021 Flood Damage Protection Ordinance for Lincoln County shall be filed with the County Auditor and Register of Deeds.

Article 1.00 Title, Authorization, Objectives and Methods

1.01 Title

These regulations shall be known as the 2021 Flood Damage Protection Ordinance for Lincoln County, South Dakota.

1.02 Statutory Authorization

Lincoln County has elected to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended). The National Flood Insurance Program (NFIP) is a voluntary program administered by the Federal Emergency Management Agency (FEMA), a component of the U.S. Department of Homeland Security, and Lincoln County officials have elected to join the program, participate, and enforce this Flood Damage Prevention Ordinance and the requirements and regulations of the NFIP. The National Flood Insurance Program, established in the aforesaid act, provides that areas of the County having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. Furthermore, Lincoln County may elect to administer the Flood Damage Prevention Ordinance to areas not identified as Special Flood Hazard Areas (SFHAs) by FEMA on the community's effective Flood Insurance Rate Map (FIRM), if the community has documentation to support that there is an inherent risk of flooding in such areas.

The Legislature of the State of South Dakota has, in SDCL §§ 11-2-13, delegated the authority to adopt regulations designed to minimize flood losses to local governmental units. Therefore, as a basis for adopting such regulations, the Lincoln County Board of Commissioners does hereby make the following legislative findings of fact:

1. The flood hazard areas of Lincoln County are subject to periodic inundation which results in the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.
2. These flood losses are created by the cumulative effect of obstructions in floodplains, which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, flood proofed or otherwise protected from flood damage, and by uses deemed unsuitable for floodplain areas or that do not account for the increased flood risk.

1.03 Objectives

It is the purpose of this ordinance to promote the public health, safety and general welfare of the community and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. Protect human life and health.
2. Minimize damage to public infrastructure, including but not limited to utilities, streets, and bridges that are susceptible to flooding.
3. Minimize prolonged business interruptions caused by flooding.
4. Minimize public expenditures on flood control projects.
5. Minimize the need for rescue and relief efforts associated with flooding and are generally undertaken at the expense of the public.
6. Protect and safeguard the welfare and safety of first responders should an emergency response be needed;
7. Help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize future flood blight areas; and
8. Promote that potential buyers are notified if properties are in a flood area.

1.04 Methods of Reducing Flood Losses

To accomplish the purposes outlined in Article 1.03 Objectives, this ordinance applies the following methods:

1. Restrict or prohibit land uses that are dangerous to health, safety, or property in times of flooding, or cause excessive increases in flood heights or velocities.
2. Require that land uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction.
3. Regulate the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters.
4. Regulate filling, grading, dredging and other developments that may increase flood damage; and
5. Prevent or regulate the construction of flood barriers that will unnaturally divert floodwaters or that may increase flood hazards to other lands.

Article 2.00 General Provisions

2.01 Areas to Which This Ordinance Applies

The provisions of this ordinance shall apply to all proposed development in a flood hazard area identified by FEMA or areas of identified and documented flood risk supported using Best Available Data within the unincorporated area of Lincoln County.

2.02 Applicability

This ordinance provides minimum requirements for development located in flood hazard areas, including but not limited to the subdivision of land, installation and repair of utilities, placement and replacement of manufactured homes, new construction and repair, reconstruction, rehabilitation, or additions to new construction, and substantial improvement of existing building and structures, including restoration after damage, and the placement of fill, debris, equipment, or materials.

2.03 Establishment of Flood Hazard Areas

The areas of special flood hazard identified by FEMA in the current scientific and engineering report entitled "Flood Insurance Study for Lincoln County, South Dakota" (FIS), dated October 25, 2017, together with the accompanying Flood Insurance Rate Map (FIRM) and any revisions thereto are hereby automatically adopted by reference and declared to be a part of this ordinance. The community has elected to adopt Best Available Data to regulate floodplain development in addition to utilizing the effective FIS and FIRM. Where Best Available Data contradicts the FIS or FIRM, the more restrictive data shall be utilized.

2.04 Establishment of Development Permit

A Floodplain Development Permit shall be required to ensure conformance with the provisions of this ordinance.

2.05 Abrogation and Greater Restrictions

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

2.06 Interpretation

In the interpretation and application of this ordinance, all provisions shall be:

1. Considered as minimum requirements.
2. Liberally construed in favor of the governing body, and
3. Deemed neither to limit nor repeal any other powers granted under state statutes.

2.07 Warning and Disclaimer of Liability

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and may occur on rare occasions. Flood heights may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that land outside of special flood hazard areas or uses permitted within such areas will be free from flooding or flood damage. This ordinance shall not create liability on the part of Lincoln County, any officer or employee thereof, or the Federal Emergency Management Agency for any flood damage that results from reliance on this ordinance or any administrative decision lawfully made hereunder.

2.08 Severability

If any section, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court, the remainder of the ordinance shall not be affected.

2.09 Compliance

No structures or developments including buildings, recreation vehicles, manufactured homes, or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this ordinance and other applicable regulations. Nothing herein shall prevent Lincoln County from taking such lawful action as is necessary to prevent or remedy any violations.

2.10 Stop Work Order

- A. *Authority.* Whenever the Floodplain Administrator finds any work or activity regulated by this ordinance being performed in a manner contrary to the provisions of this ordinance, the Floodplain Administrator is authorized to issue a stop work order.
- B. *Unlawful acts.* It shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, repair, move, remove, demolish or occupy any building, structure, facility or equipment regulated by this ordinance, or cause same to be done, in conflict with or in violation of any of the provisions of this ordinance.
- C. *Issuance.* The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work. Upon receipt of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume.
- D. *Unlawful continuance.* Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law.
- E. *Prosecution of violation.* If the notice of violation is not complied with promptly, the appropriate authorities of Lincoln County, in addition to other remedies, may institute injunction, mandamus or other appropriate action or proceeding to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the real estate, structure or facility in violation of the provisions of this ordinance or of the order or direction made pursuant thereto.

2.11 Enforcement

In accordance with Section 59.2(b) of CFR 44, Chapter 1, of the NFIP regulation, to qualify for the sale of federally subsidized flood insurance, a community must adopt floodplain management

regulations that meet or exceed the minimum standards of Section 60. “These regulations must include effective enforcement provisions.”

In accordance with Section 60.1(b) of CFR 44, Chapter 1, of the NFIP regulations, “These regulations must be legally-enforceable, applied uniformly throughout the community to all privately and publicly owned land within flood-prone (i.e. mudflow) or flood-related erosion areas, and the community must provide that the regulations take precedence over less restrictive conflicting local laws, ordinances or codes.”

2.12 Penalties for Noncompliance

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor and shall be punished pursuant to SDCL 7-18A-2. Each and every day of the continued violation may constitute a separate offense. In addition to any fine and imprisonment for each violation, violators shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent Lincoln County from taking such other lawful action as is necessary to prevent or remedy any violation.

Article 3.00 Administration

3.01 Designation of the Floodplain Administrator

The Lincoln County Geographic Information Services (GIS) Administrator is hereby appointed the Floodplain Administrator to execute the provisions of this ordinance and other appropriate sections of the NFIP Regulations and 44 CFR pertaining to floodplain management.

3.02 Administrative Authority

The Floodplain Administrator shall have the authority to render interpretations of this ordinance and to adopt policies and procedures to clarify the application of its provisions. Such interpretations, policies and procedures shall be in conformance with the intent and purpose of this ordinance. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this ordinance.

3.03 Delegation of Authority

The Floodplain Administrator shall have the authority to delegate other employees to assist in the enforcement of this ordinance.

3.04 Duties of the Floodplain Administrator

The duties of the Floodplain Administrator shall include, but not be limited to, the following:

- A. Uphold the goals of the community and the NFIP to reduce risk whenever possible and increase the community’s resistance to future disasters.
- B. Review and approve or deny all applications for development permits required by this ordinance.
- C. Review permit applications to determine whether proposed building sites, including the placement of manufactured homes, will be reasonably safe from flooding.
- D. In addition to utilizing the effective FIS and FIRMs, all permit reviews will utilize Best Available Data.
- E. Interpret floodplain boundaries where clarification is needed as to the exact location of the boundaries of flood hazard areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions or risk associated with best available data)
- F. Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.
- G. Inspect all development at appropriate times during the period of construction to ensure compliance with all provisions of this ordinance, including proper elevation of structures.

- H. Notify, prior to any alteration or relocation of a riverine watercourse: adjacent communities, the State NFIP Coordinating Agency and the Office of Emergency Management and submit evidence of such notification to the Federal Emergency Management Agency
- I. Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance., including inspection reports, notifications, required certifications and supporting data.
- J. Maintain and hold open for public inspection maps that identify and locate the boundaries of the SFHAs or flood hazard areas to which this ordinance applies, including, but not limited to, the FIRM, BLE data, and best available data hydrologic/hydraulic studies.
- K. Ensure that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344 and the Endangered Species Act of 1973).
- L. Where base flood elevation data has not been provided by FEMA, obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State or other source, including data provided by the applicant, in order to administer the provisions of this ordinance.
- M. Where a regulatory floodway has not been designated, require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A and AE on the community's FIRM, unless demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
Exception: A community may approve certain development in Zones A and AE, which increase the water surface elevation of the base flood by more than one foot provided the community first applies for a Conditional Letter of Map Revision through FEMA under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations.
- N. If a project is determined or reasonably believed to cause an adverse effect on the base flood elevations, floodplain boundaries, or any insurable structures, technical justification for the proposed development shall be submitted and the community may require a CLOMR or LOMR to be submitted prior to permit approval or as a requirement of the permit.
- O. Fill placed within the SFHA shall not result in any net loss of natural floodplain storage or cause an increase in water surface elevations during the base flood. The volume of floodwater storage loss due to filling in the SFHA shall be offset by providing an equal volume of flood storage by excavation or other compensatory measures made between the normal water level and the BFE at or adjacent to the development site.

3.05 Requirement to Submit New Technical Data

- A. The property owner or developer shall notify FEMA by submittal of a LOMR within 6 months of project completion when an applicant had obtained a CLOMR from FEMA or when development altered a watercourse, modified floodplain boundaries, or modified BFE.
- B. The property owner or developer shall be responsible for preparing technical data to support the CLOMR or LOMR application and paying any processing or application fees to FEMA. The property owner or developer is responsible for submitting the CLOMR and LOMR to FEMA and shall provide all necessary data to FEMA if requested during the review process to ensure the CLOMR or LOMR is issued.
- C. The Floodplain Administrator shall be under no obligation to sign the Community Acknowledgement Form, which is part of the CLOMR/LOMR application, until the applicant demonstrates that the project will or has met the requirements of this ordinance and all applicable state federal, and local laws.

3.06 Determination of base flood elevations

If base flood elevations are not specified, the Floodplain Administrator is authorized to require the applicant to obtain, review and reasonably utilize data available from a federal, state or other source; or determine the base flood elevation in accordance with accepted hydrologic and hydraulic engineering techniques. Such analyses shall be undertaken by a professional engineer licensed in this state, who shall certify that the technical methods used, reflect currently accepted engineering practices and standards. Studies, analyses, and computations shall be submitted in sufficient detail to allow thorough review and approval by the Floodplain Administrator. The accuracy of data submitted for such determination shall be the responsibility of the applicant.

Article 4.00 Permitting and Certification

4.01 Permit Required

Any person who intends to conduct any development in a flood hazard area or buffer zone shall first make application to the Floodplain Administrator and shall obtain approval of the required permit prior to the start of development. Permits are required for all proposed construction and other developments, including the placement of manufactured homes, within Zone A or AE on the community's FIRM, and within 100 feet of distance or 5 feet of elevation (whichever comes first) from a flood hazard area.

4.02 Permit Application Procedure

- A. The applicant shall file an application in writing on a form furnished by the Floodplain Administrator. Such application shall:
 1. Identify and describe the development to be covered by the permit.
 2. Describe the land on which the proposed development is to be conducted by legal description, street address or similar description that will readily identify and locate the site.
 3. Indicate the use and occupancy for which the proposed development is intended.
 4. Be accompanied by building plans and elevation certificate based on construction drawings,
 5. Be accompanied by a site plan in accordance with county guidelines, drawn to scale, showing the location, dimensions, and elevation of existing and proposed structures.
 6. Be accompanied by grading plans drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations with computations, construction documentation, and other information deemed appropriate by the Floodplain Administrator.
 7. Describe the extent to which any watercourse or natural drainage will be altered or relocated because of proposed development, if applicable.
 8. Indicate the location of the forgoing in relation to flood hazard areas.
 9. State the valuation of the proposed work when required.
 10. Be signed by the owner or the owner's authorized agent.
- B. Approval or denial of the development permit shall be based on all provisions of this ordinance and the following relevant factors:
 1. The danger to life and property due to flooding or erosion damage.
 2. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 3. The danger that materials may be swept onto other lands to the injury of others.
 4. The safety of access to the property in times of flood for ordinary and emergency vehicles.
 5. The risks and costs of providing emergency services during flood conditions
 6. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets, bridges, public utilities and facilities such as sewer, gas, electrical, and water systems.

7. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site.
8. The necessity to the facility of a waterfront location, where applicable.
9. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.
10. The relationship of the proposed use to the comprehensive plan for that area.
11. Volumetric calculations demonstrating compensatory storage for all fill activities in the floodplain.
12. Volumetric calculations indicating effective detention above BFE for any increased runoff from the development.

4.03 Validity of Permit

The issuance of a permit under this ordinance shall not be construed to be a permit for, or approval of, any violation of this ordinance or any other ordinance of the jurisdiction. The issuance of a permit based on submitted documents and information shall not prevent the Floodplain Administrator from requiring the correction of errors. The Floodplain Administrator is authorized to prevent occupancy or use of a structure or site which is in violation of this ordinance.

4.04 Expiration

A permit shall become invalid if the proposed development is not commenced within one year after its issuance, or if the work authorized is suspended or abandoned for a period of 180 days after the work commences. Extensions shall be requested in writing with justifiable cause demonstrated. The Floodplain Administrator may, except as otherwise provided herein, extend the time for action by the applicant for a period not exceeding 180 days.

4.05 Suspension or Revocation

The Floodplain Administrator is authorized to suspend or revoke a permit issued under this ordinance whenever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any ordinance or code of Lincoln County.

4.06 Elevation Certificates Required

The following Elevations Certificates shall be submitted for any new construction or substantial improvements:

- A. An Elevation Certificate based on "Construction Drawings" shall be submitted with the site and building plans as part of the Floodplain Development Permit application.
- B. An Elevation Certificate based on "Building Under Construction" shall be submitted to the Floodplain Administrator or Building Official after placement of the lowest floor level prior to the construction of vertical walls. With prior approval, this EC may be based upon the lowest floor base layer such as after a foundation has been poured or after erection of post style construction, or in certain situations where weather or circumstances require.
- C. An Elevation Certificate based on "Finished Construction" shall be submitted to the Floodplain Administrator and Building Official prior to the final building inspection as required for issuance of building occupancy. As built septic location must also have been verified, and grading completed.

4.07 Engineered Certifications

The following certifications shall be prepared by a registered professional engineer when required by the Floodplain Administrator:

- A. Designed Flood Opening: elevation, design and location of flood openings allowing for the automatic entry and exit of flood waters in fully enclosed areas below the base flood elevation.
- B. Floodproofing: structure floodproofing specifications and elevations in relation to mean sea level, to which a nonresidential structure will be floodproofed.
- C. No-rise: hydraulic/hydrologic computations supporting that proposed development will result in no increase in the base flood elevation in a designated floodway or an increase of no more than 1 ft in a Zone A or AE without floodway.

- D. Fill placement: specification and confirmation of proper compaction and slope protection for fill placed in the floodplain.
- E. Manufactured home foundation: design and confirmation of adequately anchored home and foundation system to resist flotation, collapse, and lateral movement.
- F. TB 10-01 certification: design specifications in accordance with the guidance provided within FEMA's Technical Bulletin 10-01 related to ensuring that structures are reasonably safe from flooding and in accordance with accepted professional practices. (May be prepared by a professional engineer, professional geologist, professional soil scientist, or other qualified design professional)
- G. Compensatory storage: calculations and plans proving the volume of flood storage by excavation or other compensatory measures are equal to the volume of floodwater storage loss due to filling in the flood hazard area. Calculations shall be made between the normal water level and the BFE and be located at or adjacent to the development site.
- H. Detention: calculations of the increased runoff volume from development with grading and drainage plan showing the contributing areas of runoff and storage capacity above the BFE.

4.08 Fees

The fees set forth in this section shall be paid at the time of filing an application with the Floodplain Administrator. Such fees shall be payable to the Department of Planning and Zoning. No action shall be taken on any application or appeal until all applicable fees, charges, and expenses have been paid in full. All fees are non-refundable. The schedule of fees, charges, and expenses for matters pertaining to these regulations may be amended by resolution of the Board of County Commissioners.

Lincoln County Flood Damage Protection Ordinance Fee Schedule

Floodplain Development Permit	\$100.00
Permit Extension	\$50.00
(maximum 180 days)	
Variances and Appeals	\$250.00

Article 5.00 Development Standards

5.01 General Standards

In all areas of flood hazards the following provisions are required for new construction or substantial improvements:

- A. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- B. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
- C. All new construction or substantial improvements below 2ft above base flood elevation shall be constructed with materials resistant to flood damage.
- D. New and replacement electrical equipment, heating, ventilating, air conditioning, plumbing connections, and other service equipment shall be located at least two feet above the base flood elevation. Electrical wiring and outlets, switches, junction boxes, and panels shall be elevated at least two feet above the base flood elevation unless they conform to the provisions of the electrical code for location of such items in wet locations. Duct systems shall not be installed below two feet above the base flood elevation.
- E. New or replaced sewer treatment plants (including all pumping stations and collector systems) and onsite waste disposal systems shall be designed or located to avoid impairment to them or contamination from them during a base flood event.
- F. New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.

- G. New and replacement sanitary sewage systems shall be designed to minimize infiltration of flood waters into the systems and discharges from systems into flood waters.
- H. Storm drainage shall be designed to convey the flow of surface waters to minimize or eliminate damage to persons or property.
- I. All materials or equipment that are flammable, explosive, or injurious to human, animal or plant life are prohibited in a flood hazard area.
- J. Buoyant materials, equipment, or debris located in a flood hazard area shall be anchored to prevent movement due to flood waters.
- K. Fill placed within the SFHA shall result in no net loss of natural floodplain storage or increase in water surface elevations during the base flood. The volume of the loss of floodwater storage due to filling in the SFHA shall be offset by providing an equal volume of flood storage by excavation or other compensatory measures made above the normal water level and below the BFE at or adjacent to the development site.
- L. Detention of increased runoff from the development site shall be provided above the BFE.
- M. A natural or established watercourse requires a development setback of 20 feet on each side of the watercourse or be designed to provide at least an equal conveyance capacity with 40 ft of drainage easement.
- N. New development proposals will be designed and constructed, to the maximum extent practicable, so building sites, walkways, driveways, parking lots, storage areas and roadways are located on land with a natural grade within elevations not less than 1 foot above the BFE and with dry land access.

5.02 Structure Standards

In all areas of flood hazard where base flood elevation data has been provided as set forth in this ordinance, the following provisions are required:

A. Residential Construction

- 1. New construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to at least two feet above the base flood elevation.
- 2. A registered professional engineer, architect, or land surveyor shall certify to the Floodplain Administrator that the elevation standard has been satisfied.
- 3. Properties that have received a Letter of Map Amendment or Letter of Map Revision based upon fill must have the lowest structure opening elevated to two feet above the base flood elevation and conform to the provisions of this section and FEMA Technical Bulletin 10.01.

B. Nonresidential Construction

- 1. New construction and substantial improvements of any commercial, industrial, or other nonresidential structure shall either have the lowest floor (including basement) elevated to at least two feet above the base flood level; or
Together with attendant utility and sanitary facilities, be designed so that below two feet above the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; or
New construction and substantial improvements of any commercial, industrial, or other non-residential structure including but not limited to detached garages, agricultural buildings, and storage buildings may be allowed to be wet floodproof provided that:
 - a. The structure is strictly a nonresidential structure used only for building access, parking or storage.
 - b. The structure is an accessory structure of low value.
 - c. The structure is designed to allow for the automatic entry and exit of flood waters through the use of flood openings.

- d. The structure is constructed of flood resistant materials.
 - e. The structure is properly anchored to resist flotation, collapse, and lateral movement;
 - f. The structure's mechanical and utility equipment is elevated or floodproofed to at least 2 ft or above the BFE.
 - g. The structure is compliant with the floodway encroachment provisions of the NFIP and this ordinance.
 - h. The structure is designed and built to adhere to FEMA Technical Bulletins 1, 2, and 7
2. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are flood proofed shall be maintained by the Floodplain Administrator.
 3. If the use or occupancy of the building changes in the future to residential, then the floodproofing of the structure cannot be used when determining compliance of the structure to the residential construction of this ordinance. As such, the building will not be grandfathered into compliance and will be required to be brought into compliance with the residential construction requirements of this ordinance
 4. Properties that have received a Letter of Map Amendment or Letter of Map Revision based upon fill must have the lowest structure opening elevated to two feet above the base flood elevation and conform to the provisions of this section and FEMA/FIA-TB-10.

C. Enclosures

1. New construction or substantial improvements, excluding crawl spaces, with fully enclosed areas below the lowest floor to be used solely for parking of vehicles, building access, or storage, and other than a basement, and subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwaters. Designs for meeting this requirement must be certified by a registered professional engineer or architect to meet or exceed the following minimum criteria:
 - a. A minimum of two openings shall be provided on no less than two sides having a total net area of not less than one square inch for every square foot of the enclosed area subject to flooding, or be designed by a professional engineer to be of equal capacity.
 - b. The bottom of all openings shall be no higher than one foot above grade;
 - c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic entry and exit of floodwaters.
 - d. The bottom of the floor joists of the structure's lowest floor shall be at least two feet above the BFE
2. The development and construction of the structure must conform with the provisions in FEMA/Federal Insurance Administration (FIA)-Technical Bulletins 1 and 2.
3. For any nonresidential construction that has an enclosure, a non-conversion agreement must be completed as part of the permitting process. The non-conversion agreement:
 - a. Acknowledges the risk associated with this building practice.
 - b. Acknowledges that the area was permitted as an enclosure and shall only be used as a nonresidential accessory of low value for the purpose of building access, parking or storage.
 - c. Allows for community, state and/or federal officials to conduct periodic inspections to ensure compliance.

D. Crawl space

1. New construction and substantial improvements built on a crawlspace or sub-grade (below grade) crawlspace may be permitted if the development is designed and meets or exceeds

the standards found in FEMA's Technical Bulletins 1, 2, and 11, which include but are not limited to the following:

- a. The structure must be affixed to a permanent foundation, designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Because of hydrodynamic loads, crawlspace construction is not allowed in areas with flood velocities greater than 5 feet per second unless the design is reviewed by a qualified design professional, such as a registered architect or professional engineer.
- b. The crawlspace is an enclosed area below the BFE and, as such, must have openings that equalize hydrostatic pressures by allowing the automatic entry and exit of floodwaters. The bottom of each flood opening can be no more than 1 foot above the LAG.
- c. The crawlspace enclosure must have proper openings that allow equalization of hydrostatic pressure by allowing automatic entry and exit of floodwaters. To achieve this, a minimum of 1 square inch of flood opening is required per 1 square foot of the enclosed area subject to flooding. A registered professional engineer must certify the elevation, design and location of flood openings.
- d. Portions of the building below the BFE must be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawlspace used to elevate the building, but also, insulation, piers, or other materials that extend below 2 feet above the BFE. Floor joists and ductwork must be placed 2 feet above the BFE.
- e. Any building utility systems within the crawlspace must be elevated 2 feet above the BFE or be designed so that floodwaters cannot enter or accumulate within the system components during flood conditions.
- f. The interior grade of a crawlspace below the BFE must not be more than 2 feet below the lowest adjacent exterior grade.
- g. The height of the below-grade crawlspace, measured from the lowest interior grade of the crawlspace floor to the bottom of the floor joist of the next higher floor, cannot exceed 4 feet at any point.
- h. There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. The enclosed area should be drained within a reasonable time after a base flood event.
- i. Note: Buildings with below-grade crawlspaces will have higher flood insurance premiums than buildings that have the preferred crawlspace construction, with the interior elevation at or above the LAG.

E. Manufactured Homes

1. Elevation. All new and replacement manufactured homes to be placed or substantially improved in a flood hazard area within a new or an existing manufactured home park, shall be elevated such that the bottom of the lowest floor of the manufactured home is elevated to at least two feet above the base flood elevation.
2. Foundations. All new and replacement manufactured homes, including substantial improvement of existing manufactured homes, shall be placed on a permanent, reinforced foundation (including pile or column foundations) that is adequately anchored to resist flotation, collapse, and lateral movement due to the effects of wind and flood loads acting simultaneously on all building components.

F. Recreational Vehicles

1. Temporary placement. Recreational vehicles in flood hazard areas shall be fully licensed and ready for highway use and shall be placed on a site for less than 180 consecutive days. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is

attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

2. Permanent placement. Recreational vehicles that are not ready for highway use or that are to be placed on a site for more than 180 consecutive days shall meet the requirements of Section 5.02 for Manufactured Homes.

5.03 Subdivision Proposals

- A. The following requirements shall apply in the case of any proposed subdivision, including proposals for manufactured home parks and subdivisions, any portion of which lies within a flood hazard area:
 1. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.
 2. All subdivision proposals shall have adequate detention provided to mitigate effects of development.
 3. The flood hazard area, including floodways shall be delineated on preliminary and final subdivision plans.
 4. Base flood elevations shall be shown on preliminary and final subdivision plans.
 5. Building lots shall be provided with adequate buildable area outside the floodplain.
 6. In cases where fill is proposed within a flood hazard area, compensatory storage shall be provided.
 7. Where changes to base flood elevations or the delineation of a regulatory floodplain are proposed, a Conditional Letter of Map Revision shall be provided prior to construction activity.
 8. Utilities and facilities shall comply with design criteria set forth in this ordinance and other appropriate codes, ordinances and laws and shall be located and constructed to minimize flood damage.
 9. Streets and sidewalks shall be designed to minimize potential for increasing or aggravating flood levels.
 10. Base flood elevation data shall be generated for subdivision proposals and other proposed development, including the placement of manufactured home parks and subdivisions which are greater than 10 lots or 5 acres, whichever is less.
 11. Buildings sites, walkways, driveways, parking lots, storage areas and roadways of subdivision development proposals shall be designed and constructed, to the maximum extent practicable, so they are located on land with a natural grade with elevations not less than 1 foot above the base flood elevation and with dry land access.

5.04 Buffer Zone

For areas located within 100 feet (or 5 feet of increase in elevation, whichever occurs first) of a flood hazard area, the following minimum requirements shall apply to construction of residential and commercial structures:

- A. The minimum setback distance from the edge of a flood hazard area to the nearest wall of a basement shall be 50 feet.
- B. The lowest floor level elevation (including crawlspace and basement) shall be no more than 2 feet below the closest adjacent base flood elevation.
- C. The lowest opening shall be no less than 2 feet above the base flood elevation.
- D. Additional requirements in conformance with the provisions of FEMA/FIA-Technical Bulletin 10-01 may be required to ensure that a structure is reasonably safe from flooding.

5.05 Substantial Improvement and Substantial Damage

For applications located in a flood hazard area involving building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, and any other improvement of or work on such

buildings and structures, the Floodplain Administrator, in coordination with applicable community officials and staff, shall:

- A. Estimate the market value by using the county appraised value, or the applicant may obtain an appraisal of the market value prepared by a qualified independent appraiser. The value shall be of the building or structure only, not of the building and land, as it exists before the start of construction of the proposed work. In the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made.
- B. Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure.
- C. Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage. The determination may require evaluation of previous permits issued for improvements and repairs.
- D. Utilize FEMA's Substantial Improvement/Substantial Damage Reference when making any determination on Substantial Improvement and/or Substantial Damage.
- E. The substantial improvement regulations apply to all work that is proposed as the improvement, even if multiple permits are issued. Therefore, the determination of the cost of the improvement should consider all costs of all phases of the work before issuance of the first permit.
- F. Notify the applicant that if it is determined that the work constitutes substantial improvement or repair of substantial damage, that compliance with the floodplain management ordinance is required.

5.06 Watercourse Alteration

- A. Routine maintenance activities such as vegetation management and sedimentation are not considered watercourse alteration.
- B. Alterations to a channel, river, stream, drainage way, or other watercourse shall not diminish the flood-carrying capacity of that watercourse. The altered or relocated watercourse shall have the same or greater capacity as the original watercourse.
- C. All proposals for a watercourse alteration require submittal of a floodplain development permit application. The applicant shall submit a set of plans and calculations prepared by a registered professional engineer of the proposed alteration and its effect on flows. An applicant shall provide the following information, additional information may be submitted and/or requested:
 - 1. A description of the proposed alteration
 - 2. A topographic map of the project area.
 - 3. A comparison of the existing and proposed channel capacity, including engineering calculations prepared by a registered professional engineer.
 - 4. A detailed plan showing existing and proposed contours showing the extent to which any watercourse or natural drainage will be altered or relocated.
 - 5. Land use of adjacent properties.
 - 6. Description of any obstructions.
 - 7. Dimensions, specifications, and locations of any structures and facilities (bridges, culverts, water crossing, dams, dikes, levees, detention basins, etcetera).
 - 8. Photos of the area.
- D. Prior to approval of the floodplain development permit, the applicant shall:
 - 1. Submit an application and obtain a CLOMR from FEMA.
 - 2. Notify adjacent communities, property owners, the South Dakota Division of Emergency Management, and the Federal Insurance Administrator, prior to any alteration or relocation of a watercourse, within a SFHA, and submit evidence of such notification to the Floodplain Administrator and to FEMA.

3. Provide for maintenance within the altered or relocated portion of the watercourse so that the flood-carrying capacity is not diminished.

5.07 Floodways

Floodways located within SFHAs are extremely hazardous areas due to the velocity of flood waters that carry debris, potential projectiles, and erosion potential, the following provisions shall apply:

- A. Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase greater than 0.00 feet.
- B. All new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article 5 in this ordinance.
- C. Buildings shall not be used for human habitation;
- D. Pipeline crossings through a river or stream shall be buried in the river or stream bed and banks, or otherwise sufficiently protected to prevent rupture due to channel degradation, meandering or the action of flood flows;
- E. Storage of material, equipment or debris is prohibited.
- F. A floodway encroachment that increases the level of the base flood may be authorized under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Regulations, if the applicant has received a Conditional Letter of Map Revision (CLOMR) from the Federal Emergency Management Agency.

Article 6.00 Variance Provisions

6.01 Variance Procedure

- A. The County Board of Commissioners shall hear and render judgment on requests for variances from the requirements of this ordinance only after a floodplain development permit has been denied.
- B. The Board shall hear and render judgement on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.
- C. The Floodplain Administrator shall request an opinion letter from the Federal Emergency Management Agency and the state Office of Emergency Management prior to hearing any variance or appeal.
- D. The Floodplain administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency and the state Office of Emergency Management upon issuing a variance.
- E. Upon consideration of the factors noted above and the intent of this ordinance, the Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this ordinance.
- F. Any applicant to whom a variance is granted shall be given written notice of the variance and the conditions thereof that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

6.02 Prerequisites for Granting Variances

- A. A technical justification showing good and sufficient cause that the unique characteristics of the size, configuration, or topography of the site renders the elevation standards inappropriate;
- B. A determination that failure to grant the variance would result in exceptional hardship to the applicant;
- C. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances,

considers the need of ingress and egress during times of floods, and does not jeopardize first responders' health and welfare; and

- D. A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

6.03 Variance for Historic Structures

A variance is authorized to be issued for the repair or rehabilitation of a historic structure upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure, and the variance is the minimum necessary to preserve the historic character and design of the structure. The term "substantial improvement" does not include any alteration of a structure or facility listed on the National Register of Historic Places or a State Inventory of Historic Places.

6.04 Restrictions

The Board shall not issue a variance for any proposed development in a designated floodway that would have the effect of waiving requirements set forth in Article 5.07 of this ordinance.

6.05 Considerations

In reviewing applications for variances, the Board shall consider all technical evaluations, all relevant factors, all other portions of this ordinance, and the following:

- A. The danger that materials and debris may be swept onto other lands resulting in further injury or damage;
- B. The danger to life and property due to flooding or erosion damage;
- C. The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners;
- D. The importance of the services to the community which will be provided by the proposed development;
- E. The availability of alternate locations for the proposed development that are not subject to flooding or erosion;
- F. The compatibility of the proposed development with existing and anticipated development;
- G. The relationship of the proposed development to the comprehensive plan and floodplain management program for that area;
- H. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- I. The expected heights, velocity, duration, rise and debris and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
- J. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets and bridges.

6.06 Appeals

Appeals may be taken to Circuit Court by any person or persons, jointly or severally, aggrieved by any decision of the Board in the manner and form provided by the statutes of the State of South Dakota, in such cases made and provided.

6.07 Limitations

Any order of the Board granting a variance may be declared invalid by the Board unless substantially completed within two (2) years from the date of such order. The Floodplain Administrator shall notify the property owner of record upon invalidation of a variance.

6.08 Insurance Implication

It must be emphasized that variances are granted with respect to floodplain management requirements and do not affect flood insurance rates. The Federal Insurance Administration, by statute, must charge insurance rates commensurate with the risk to which a building is exposed. Insurance rates for buildings constructed under variances are generally higher than rates for a comparable structure that is fully compliant. In some instances the additional costs of insuring these buildings, if they are not elevated or floodproofed in accordance with the NFIP requirements,

would approach or even exceed the costs of meeting NFIP elevation or dry floodproofing requirements, and the structure would still be exposed to flood damages.

6.09 Notification

In accordance with the NFIP regulations, communities must notify the applicant in writing that the issuance of a variance will result in increased premium rates for flood insurance and that such construction below the BFE increases risks to life and property.

Article 7.00. Definitions

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the meaning they have in common usage and to give this ordinance its most reasonable application. Further definition is found in the Code of Federal Regulations 44 CFR 59.1

100-Year Flood means a flood having a 1 percent chance of being equaled or exceeded during any given year (1-percent-annual-chance flood). 100 Hundred Year Flood, 1-percent-annual-chance flood and Base Flood are synonymous. The term does not imply that the flood will happen once every 100 hundred years. Mandatory flood insurance requirements may apply.

100-Year Floodplain means the area susceptible to being inundated by the Base Flood (1-percent-annual-chance flood).

500-Year Flood means a flood having a 0.2-percent chance of being equaled or exceeded during any given year (0.2-percent-annual-chance flood). The term does not imply that the flood will happen once every 500 years. Mandatory flood insurance requirements generally do not apply.

500-Year Floodplain means the area susceptible to being inundated by a 0.2-percent-annual-chance flood.

Accessory Structure is a structure on the same parcel of property as the principal structure and with same ownership. It is a structure of low value used solely for the parking of vehicles and storage of tools, materials, or equipment incidental to the use of the principal structure. No human habitation is allowed within an accessory structure.

Addition is any improvement that expands the enclosed footprint or increases the square footage of an existing structure including lateral additions to the sides, front, or rear of a structure, vertical additions on top of a structure, and enclosures or crawlspaces made underneath a structure.

Approximate Study means flood hazard mapping that is done using approximate rather than detailed study methods that produce an approximate boundary of the base floodplain. An approximate study does not produce a base flood elevation.

Area of Shallow Flooding means a designated AO or AH zone shown on the Flood Insurance Rate Map (FIRM) characterized by ponding (AH Zone) or sheet flow (AO Zone) and having an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident.

Authorized Agent is a person who has been legally empowered to act on behalf of another person or an entity. Only a licensed attorney may act as agent for an incorporated municipality.

Base Flood means the flood having a one percent chance of being equaled or exceeded during any given year (1-percent-annual-chance flood). Base flood is also referred to as the 100-year flood.

Base Flood Elevation (BFE) means the water surface elevation of the 1-percent-annual-chance flood event relative to a standard datum. The Lincoln County Flood Insurance Rate Map (FIRM) uses the North American Vertical Datum (NAVD 88)

Basement means any area of a building having its floor sub-grade (below ground level) on all sides. A walkout basement that does not require a step up to grade is not considered a basement.

Benchmark is a monument on the ground which shows the elevation of that monument above sea level relative to a standard datum or design plan.

Best Available Data is existing flood hazard information adopted by a community and reflected on the effective FIRM and FIS report; or draft or preliminary flood hazard information supplied by FEMA or from another source. Other sources may include, but are not limited to, state, other

federal agencies, or local studies, the more restrictive of which would be reasonably used by the community.

Buffer Zone (see Flood Hazard Area Buffer Zone).

Building (see Structure)

Channelization means the artificial creation, enlargement, realignment, or alteration of a stream channel's slope, shape, or alignment. Streambank restoration may be deemed as channelization.

Code of Federal Regulations (CFR) is the codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the Federal Government.

Conditional Letter of Map Revision (CLOMR) is FEMA's comment on a proposed project that would, upon construction, affect the hydrologic and/or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective BFEs, and/or the SFHA. The letter does not revise an effective map; it indicates whether the project, if built as proposed, would be recognized by FEMA. A CLOMR is followed by a LOMR upon completion of the project.

Conditional Letter of Map Revision Based on Fill (CLOMR-F) is FEMA's comment on a proposed structure or property. The letter from FEMA does not revise an effective map; it indicates whether the project, if built as proposed, would be removed from the floodplain.

Crawlspace means an under-floor space that has its interior floor area (finished or not) no more than 4 feet from the bottom floor joist of the next higher floor elevation, designed with proper flood openings to equalize hydrostatic pressures of flood water, and is not used for habitation. Refer to FEMA Technical Bulletin 1 - Crawlspaces

Datum means a common vertical elevation reference usually in relation to sea level such as the National Geodetic Vertical Datum (NGVD 29), North American Vertical Datum (NAVD 88) or other datum.

Deed Restriction refers to a clause in a deed that limits the future use of the property in some respect. Deed restrictions may impose a variety of limitations and conditions. For example, they may limit the density of buildings, dictate the types of structures that can be erected, or prevent buildings or parts of buildings from being used for specific purposes or from being used at all.

Detached Garage is a building that is used solely for storage of materials or vehicle parking for up to four housing occupants. If a detached garage is designed or used for habitation or conducting business, or has multiple stories, then the building is not considered a detached garage under the NFIP.

Detailed Study means flood hazard mapping that is done using detailed data with hydrologic and hydraulic methods that produce base flood elevations, floodways, and other pertinent flood data.

Development means any human-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, demolition, excavation or drilling operations, or storage either temporary or permanent of equipment or materials.

Elevated building means a non-basement building which has its lowest floor raised above ground level by posts, piers, pilings, columns, fill, solid foundation or perimeter walls forming an enclosure.

Enclosure refers to the enclosed walled-in area below the lowest floor of an elevated building. Enclosures below the BFE may only be used for building access, vehicle parking, and storage, and meet the development standards of 502.C of this ordinance.

Erosion means the process of the gradual wearing away of land masses by wind, water, or other natural agents.

Existing Manufactured Home Park or Subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of

streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

Existing structures means any buildings and structures for which the start of construction commenced before the October 1, 1986 effective date of the Lincoln County FIRM. Existing structures may also be referred to as existing construction.

Expansion to an Existing Manufactured Home Park or Subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Facility means any man-made or man-placed item other than a structure.

FEMA means the Federal Emergency Management Agency.

Fill refers to the placement of materials, such as dirt, sand, or rock to elevate a structure, property, or portion of a property above the natural elevation of the site, regardless of where the material was obtained from. The common practice of removing unsuitable material and replacing with engineered material is not considered fill if the elevations are returned to existing conditions. Any fill placed or used prior to the area being mapped as a flood hazard area is not deemed as fill.

Flood or Flooding means a general and temporary condition of partial or complete inundation of normally dry land from the overflow of inland or tidal waters or the unusual and rapid accumulation or runoff of surface waters from any source.

Flood study means an examination, evaluation, and determination of flood hazards and if appropriate, water surface elevations. A study may contain general watershed hydrologic characteristics or be coupled with the specific hydraulic dimensions of culvert and bridge structures, or channel cross sections.

Flood Fringe means that portion of the floodplain outside of the floodway (often referred to as “floodway fringe”)

Flood hazard area means the area subject to a one percent or greater chance of flooding in any given year. Where a discrepancy between Best Available Data and the Flood Insurance Rate Map conflict, the greater of the two areas shall be used.

Flood hazard area buffer zone means an area regulated by the community which is outside of and adjacent to a flood hazard area where residual flood hazards may exist and where typical damage from sub-surface flood conditions and by flooding events that exceed the base flood elevation are anticipated and reasonably preventable by compliance with specific design requirements.

Flood insurance means the insurance coverage provided under the National Flood Insurance Program. Flood insurance coverage is available for all properties in Lincoln County.

Flood Insurance Rate Map (FIRM) means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

Flood Insurance Study (FIS) is the official report provided in conjunction with the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA). The report contains community and study details, flood profiles and water surface elevations of the base flood associated with the Flood Insurance Rate Map

Floodplain Management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, mitigation plans and projects, and floodplain management regulations.

Floodplain Management Regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a flood damage protection, drainage, nuisance and erosion control ordinances) and other applications of police power in any

combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Flood Opening refers to an opening in the wall of an enclosed structure that allows floodwaters to automatically enter and exit the enclosure. Refer to FEMA Technical Bulletin 1.

Flood Protection System means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to an SFHA and to reduce the depths of associated flooding. Such a system typically includes dams, reservoirs, levees or dikes. These specialized, flood modifying works are those constructed in conformance with sound engineering standards. FEMA only accredits levees, both private and public, that have been certified by a professional engineer or firm in which the certification shows that the levee have met and continue to meet the minimum regulatory standards cited in Title 44, Chapter 1, Section 65.10 of the Code of Federal Regulations (44 CFR 65.10).

Flood resistant materials means any construction material capable of withstanding direct and prolonged contact with flood waters without sustaining any damage that requires more than low-cost repair (such as painting).

Floodplain or Flood-Prone Area means any land area susceptible to being inundated by water from any source whether or not identified by FEMA (see definition of Flood or Flooding).

Floodplain Development Permit is the community issued authorization for development to occur within an SFHA identified by FEMA or Flood Hazard Area identified by the community. The development permit, together with documentation provided during the application review process verifies compliance with the community's ordinance.

Floodplain Development Permit Application is the community document used to compile applicant, agent, site and development details for any project or development proposed within an SFHA identified by FEMA or Flood Hazard Area identified by the community. The application for permit initiates review of the proposed development, outlines general requirements, terms, and conditions of a permit and endorses applicant consent, to ensure compliance with the community's ordinance.

Floodplain or flood-prone area means any land area susceptible to being inundated by water from any source (see definition of flooding).

Floodproofing means any combination of structural and non-structural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents. Floodproofing can either be accomplished in the form of dry floodproofing in which the structure is watertight below the levels that need flood protection, or wet floodproofing in permanent or contingent measures applied to a structure that prevent or provide resistance to damage from flooding, while allowing floodwaters to enter the structure or area.

Floodway—see Regulatory Floodway.

Freeboard means a factor of safety expressed in feet above base flood level for purposes of flood plain management. "Freeboard" compensates for many unknown factors that can contribute to flood heights greater than calculated or expected, such as bridge or culvert openings, the hydrological effect of urbanization on the watershed and increases of flood frequency and duration.

Future-conditions flood hazard area means the area that would be inundated by the 1-percent-annual-chance (100-year) flood based on future-conditions hydrology.

Future-conditions hydrology means the flood discharges associated with projected land-use conditions based on a community's zoning maps and/or comprehensive land-use plans and without consideration of projected future construction of flood detention structures or projected future hydraulic modifications within a stream or other waterway, such as bridge and culvert construction, detention, fill, and excavation.

Highest Adjacent Grade (HAG) means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic Structure means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
4. Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified:
 - a) by an approved state program as determined by the Secretary of the Interior, or
 - b) directly by the Secretary of the Interior in states without approved programs.

Letter of Map Amendment (LOMA) means an official amendment to an effective FIRM by letter from FEMA. A LOMA establishes a property's location in relation to the SFHA. It is usually issued because a property or structure has been inadvertently mapped as being in the floodplain when the property or structure is actually on natural high ground above the BFE.

Letter of Map Revision (LOMR) means FEMA's modification or revision to the effective FIRM. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective BFEs, or the SFHA.

Letter of Map Revision Based on Fill (LOMR-F) means an official amendment to an effective FIRM by letter from FEMA where fill was brought in or used to elevate a property, portion of property or structure above the BFE.

Levee means a man-made structure usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water to provide protection from temporary flooding.

Levee System means a flood protection system that consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Lowest Adjacent Grade (LAG) means the lowest natural elevation of the ground surface prior to construction next to the proposed walls of a structure. For an existing structure, it means the lowest point where the structure and ground touch, including but not limited to attached garages, decks, stairs, and basement windows.

Lowest Floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant Enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor.

Manufactured home means a structure that is transportable in one or more sections, is built on a permanent chassis, and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle" however, a manufactured home may be used for both residential and non-residential use.

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean sea level means, for purposes of this ordinance, the North American Vertical Datum (NAVD) of 1988, to which base flood elevations shown on Lincoln County's Flood Insurance Rate Map are referenced.

NAVD means North American Vertical Datum of 1988

New Construction means structures for which the start of construction commenced on or after the effective date of Lincoln County's floodplain management regulations adopted February 28, 1989 and includes any subsequent improvements to such structures. For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the October 1, 1986 effective date of Lincoln County's initial FIRM and includes any subsequent improvements to such structures.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

NGVD means National Geodetic Vertical Datum of 1929

No-Rise Certification is a formal certification signed and stamped by a professional engineer licensed to practice in the state, demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that a proposed development will not result in any increase (0.00 feet) in flood levels within the community during the occurrence of a base flood event.

Recreational vehicle means a vehicle that is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled or permanently towable by a light duty truck, and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. A recreational vehicle is ready for highway use if it is fully licensed on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

Regulatory Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. The Lincoln County FIS uses the minimum Federal standard limitation of 1 foot, with provision that hazardous velocities are not produced.

Residual flood hazard means risks associated with subsurface flood conditions and flooding from events that exceed the base flood in areas near to flood hazard areas.

Riverine means relating to, formed by, or resembling a river (including tributaries), stream, brook, creek, etcetera, which can be intermittent or perennial.

Section 1316 refers to the section of the National Flood Insurance Act of 1968, as amended, which provides for the denial of flood insurance coverage for any property that the Administrator finds has been declared by a duly constituted State or local authority to be in violation of State or local floodplain management regulations. Section 1316 is issued for a property, not a property owner, and remains with the property even after a change of ownership

Shallow Flooding means flooding characterized by ponding or sheet flow where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. The Flood Insurance Rate Map (FIRM) designates Areas of Shallow Flooding as zone AO or AH.

Special Flood Hazard Area (SFHA) is the land in the floodplain subject to a one percent or greater chance of flooding in any given year designated as Zone A or AE on the Lincoln County Flood Insurance Rate Map.

Start of construction means, for purposes of this ordinance, the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start of construction means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. For a substantial improvement, the actual start

of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means any walled and/or roofed building, manufactured home, culvert, bridge, dam, or a gas or liquid storage tank which is principally above ground, as well as a manufactured home.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the market value of the structure only before the damage occurred. This term also applies to structures which have incurred any damage that equals or exceeds 50 percent of the structure's market value regardless of the actual repair work performed. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a ten-year period for which the average cost of repairs at the time of each such flood event equals or exceeds 25 percent of the market value of the structure before the damage occurred.

Substantial improvement means any repair, reconstruction, rehabilitation, addition, or improvement of a building or structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications that have been identified by the building official and that are the minimum necessary to assure safe living conditions; or
2. Any alteration of a "historic structure" if the alteration will not preclude the structure's continued designation as a "historic structure".

Variance means a grant of relief from the requirements of this ordinance which permits construction in a manner otherwise prohibited by this ordinance where strict enforcement would result in unnecessary hardship.

Violation means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance in Sections 44 CFR 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

Water surface elevation means the height, in relation to the North American Vertical Datum (NAVD) of 1988, (or other datum, when specified) of floods of various magnitudes and frequencies, such as the 1-percent-annual-chance flood event, in the flood plains of coastal or riverine areas.

Watercourse means the channel and banks of an identifiable water in a creek, brook, stream, river, ditch or other similar feature.

Zone A is a high risk special flood hazard area shown on the Lincoln County Flood Insurance Rate Map developed using approximate study methods and therefore no base flood elevations are provided.

Zone AE is a high risk special flood hazard area shown on the Lincoln County Flood Insurance Rate Map developed using detailed study methods and includes base flood elevations.

Zone X is an area of minimal flood hazard depicted on the Lincoln County Flood Insurance Rate Map as all areas outside of the A Zones. Zone X may still have flooding that does not meet the criteria to be mapped as a special flood hazard area, especially ponding and local drainage problems. Zone X replaces zone C shown on previous FIRMs

MOTION by Arends and seconded by Jibben. Arends: "Aye" Jibben: "Aye" Poppens: "Aye" Schmidt: "Aye" Landeen: "Aye". Motion carried.

COMMISSIONER BRIEFING: Toby Brown, Planning & Zoning Director, introduced a motion to approve an Ordinance of Lincoln County, SD, rezoning the property legally described as a portion (approximately 10 acres), N1/2 NW1/4 (Ex. H-1 & N 211.5' of E 412'), Section 33-T100N-R49W from the A-1 Agricultural District to the C Commercial District and amending the Official Zoning Map of Lincoln County, that was tabled after its May 25, 2021, public hearing.

AN ORDINANCE OF LINCOLN COUNTY, SD, AMENDING THE 2009 REVISED ZONING ORDINANCE BY REZONING A PORTION (10 ACRES) OF THE PROPERTY LEGALLY DESCRIBED AS THE N1/2 NW1/4 (EX. H-1 AND N211.5' E412') OF SECTION 33-T100N-R49W FROM THE A-1 AGRICULTURAL DISTRICT TO THE C COMMERCIAL DISTRICT. BE IT ORDAINED BY LINCOLN COUNTY, SD:

That a portion (10 acres – as shown by exhibit) of the property legally described as the N1/2 NW1/4 (Ex. H-1 and N211.5' E412') of Section 33-T100N-R49W is hereby rezoned from the A-1 Agricultural District to the C Commercial District, and the official zoning map of Lincoln County referred to in Section 2.0 Revised Zoning Ordinance is amended to include the rezoning.

MOTION by Poppens and seconded by Schmidt. Arends: "Nay" Jibben: "Nay" Poppens: "Aye" Schmidt: "Aye" Landeen: "Aye". Motion carried.

COMMISSIONER BRIEFING: Toby Brown, Planning & Zoning Director, clarified the letter dated May 26, 2021 from the Department of Agriculture and Natural Resources regarding Primo Feedyards, LLC State General Permit revised plans and specifications review. Brown explained that the general permit from the State was applied for and received prior to the Conditional Use Permit decision by the Board which limits the property to 1,000 head.

COMMISSIONER BRIEFING: Harold Timmerman, Emergency Manager, informed the Board of the necessary facts pertaining to an application for a fireworks display permit. Discussion included presence of Harrisburg Fire Department during display, drought, and professionalism of applicant.

RESOLUTION: BE IT RESOLVED to approve Fireworks Public Display Permit Application from Mark J. Foster for display starting at 10:00 p.m. on July 9, 2021, at Lincoln Lakes Addition Lot 3A 23-100-49. MOTION by Poppens and seconded by Arends. Arends: "Aye" Jibben: "Nay" Poppens: "Aye" Schmidt: "Nay" Landeen: "Aye". Motion carried.

COMMISSIONER BRIEFING: Julia Disburg, Human Resource Director, informed the Board of the necessary facts pertaining to several personnel items.

RESOLUTION: BE IT RESOLVED to approve hire of Kaysee Nesmoe as a full-time Office Assistant for the Sheriff's Office at \$18.51/hour effective 6.28.2021. MOTION by Poppens and seconded by Schmidt. Arends: "Aye" Jibben: "Aye" Poppens: "Aye" Schmidt: "Aye" Landeen: "Aye". Motion carried.

RESOLUTION: BE IT RESOLVED to approve promotion of Sarah Bentz, full-time Property Technician, to full-time Appraiser at \$21.79/hour effective 6.21.2021. MOTION by Poppens and seconded by Schmidt. Arends: "Aye" Jibben: "Aye" Poppens: "Aye" Schmidt: "Aye" Landeen: "Aye". Motion carried.

RESOLUTION: BE IT RESOLVED to approve hire of Jill Fossum as a full-time Legal Office Assistant for the State's Attorney's Office at \$18.51/hr (Grade 104, Step 5) effective 7.6.2021. MOTION by Schmidt and seconded by Jibben. Arends: "Aye" Jibben: "Aye" Poppens: "Aye" Schmidt: "Aye" Landeen: "Aye". Motion carried.

RESOLUTION: BE IT RESOLVED to approve hire of Anthony Zongo as a full-time Deputy Sheriff for the Sheriff's Office at \$22.55/hr (Grade SO1, Step 1) effective 6.21.2021. MOTION by Schmidt and seconded by Arends. Arends: "Aye" Jibben: "Aye" Poppens: "Aye" Schmidt: "Aye" Landeen: "Aye". Motion carried.

RESOLUTION: BE IT RESOLVED to Combine Light/Heavy Equipment Operator positions and change title of position to Equipment Operator. MOTION by Jibben and seconded by Arends. Arends: "Aye" Jibben: "Aye" Poppens: "Aye" Schmidt: "Aye" Landeen: "Aye". Motion carried.

RESOLUTION: BE IT RESOLVED to table items number twelve, thirteen, nineteen, and twenty under Regular Business. MOTION by Poppens and seconded by Arends. Arends: "Aye" Jibben: "Aye" Poppens: "Aye" Schmidt: "Aye" Landeen: "Aye". Motion carried.

COMMISSIONER BRIEFING: William Golden, Chief Civil Deputy State's Attorney, informed the Board of the necessary facts pertaining to care of poor relief item before them.

RESOLUTION: BE IT RESOLVED to settle and compromise the claims as explained by the Chief Civil Deputy State's Attorney. MOTION by Arends and seconded by Poppens. Arends: "Aye" Jibben: "Aye" Poppens: "Aye" Schmidt: "Aye" Landeen: "Aye". Motion carried.

RESOLUTION: BE IT RESOLVED to enter Executive Session at 12:09 p.m. for the purposes of consulting with legal counsel or reviewing communications from legal counsel about proposed or pending litigation or contractual matters. SDCL 1-25-2(3) 3) MOTION by Poppens and seconded by Arends. Arends: "Aye" Jibben: "Aye" Poppens: "Aye" Schmidt: "Aye" Landeen: "Aye". Motion carried.

RESOLUTION: BE IT RESOLVED to exit Executive Session at 12:18 p.m. MOTION by Poppens and seconded by Arends. Arends: "Aye" Jibben: "Aye" Poppens: "Aye" Landeen: "Aye". Motion carried.

Commissioner Schmidt was not present after Executive Session.

MOTION by Jibben and seconded by Arends to adjourn at 12:18 p.m. until 8:30 p.m. on June 29, 2021. Arends: "Aye" Jibben: "Aye" Poppens: "Aye" Landeen: "Aye". Motion carried.

Lincoln County Board of Commissioners

_____/s/
Tiffani Landeen, Lincoln County Chair

Attest: _____/s/
Shaun Feilmeier, Deputy Auditor

Approved: July 6, 2021

Please publish the week of July 12, 2021.