

SECTION 500 - ADMINISTRATION AND ENFORCEMENT

SECTION 501 - ADMINISTRATIVE STANDARDS

Whenever, in the course of administration and enforcement of these Zoning Ordinances, it is necessary or desirable to make any administrative decision, then, unless other standards are provided in these Zoning Ordinances, the decision shall be made so that the result will not be contrary to the purpose of these Zoning Ordinances or injurious to the surrounding neighborhood.

SECTION 502 - PLANNING AND ZONING DIRECTOR

The Pennington County Planning and Zoning Director, designated by the Board, shall ~~administer and enforce the provisions of these Zoning Ordinances and shall administer~~ the policies established by the Commission. His work shall be performed in cooperation with and under the direction of the Commission and the Board. He shall have no power to vary or waive the Zoning Ordinance requirements. The Planning and Zoning Director shall:

- A. Issue all building permits and make and maintain records thereof.
- B. Issue and renew, where applicable, all temporary use permits and make and maintain records thereof.

- C. Maintain and keep current the Official Zoning Maps and records of amendments thereto.
- D. Conduct inspections as prescribed by these Zoning Ordinances and such other inspections as are necessary to ensure compliance with the various provisions of these Zoning Ordinances.
- E. Notify in writing the person responsible for any violation of the provisions of these Zoning Ordinances, indicating the nature of the violation and ordering the action necessary to correct it.
- F. Maintain the records of the Pennington County Planning and Zoning Commission.
- G. Collect data and information, be present or represented, and prepared to answer technical questions at hearings or meetings of the Commission.
- H. Act as liaison between the Commission and the Board.
- I. Prepare and publish all public advertisement and notices for hearings of the Commission and Board relative to Planning and Zoning activities and coordinate publication with the County Auditor.

SECTION 503 - PENNINGTON COUNTY PLANNING AND ZONING COMMISSION

The Pennington County Planning and Zoning Commission shall hold a hearing on all requested zoning or zoning changes within forty-five (45) days of receipt of the request (SDCL 11-2-28, 11-2-28.1 and 11-2-28.2) and recommend to the Board approval with conditions or disapproval of the request. The Commission shall review and recommend action to the Board for all plans, plats, or proposals, including utility and facility proposals. The recommendation to the Board shall be included in a motion of approval, disapproval, or approval with conditions and the reasons for the recommendation.

A. Zoning or Rezoning Requests:

The Commission shall hear and recommend to the Board all requests to establish a zoning district, enlarge or change a zoning district, or request a rezoning of individual property. The zoning requests may be initiated by a petition of thirty (30) percent of the landowners in the zoning district or districts requesting the change (SDCL 11-2-28) or by petition of an individual landowner in regard to any or all of his property (SDCL 11-2-28). Such hearings must be held and recommendation forwarded to the Board no less than forty-five (45) days of receipt of petition.

B. Decision of Planning Commission:

The Commission shall consider the request and information furnished by the Director, staff, persons present at the hearing, and any written statements received to arrive at a decision on the request. The decision may grant the request, grant the request with conditions imposed by the Commission, postpone the decision for additional information, or deny the request. In the case of postponement, the decision to grant or deny the request must be made within forty-five (45) days of receipt of the request unless the applicant agrees to an extension of time.

C. Notice to the Board of Commissioners:

The action of the Commission on a request for a zoning change will be forwarded to the Board.

SECTION 504 - PENNINGTON COUNTY ZONING BOARD OF ADJUSTMENT

The Pennington County Zoning Board of Adjustment shall hear and decide all requests for Variances. The Board of Adjustment shall have the power to approve, disapprove, or approve with conditions all requests.

A. Variances:

The Board of Adjustment may authorize, after finding that all requirements have been met, such Variance from the terms of these Zoning Ordinances, as shall not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of these Zoning Ordinances would result in unnecessary hardship so that the spirit of these Zoning Ordinances shall be observed and substantial justice done.

No Variance shall have the effect of allowing in any district, uses prohibited in that district, injurious to surrounding property, or be in conflict with the comprehensive plan, or of lower standards than those required by State Law.

SECTION 505 - PENNINGTON COUNTY BOARD OF COMMISSIONERS

A. Hearings for Zoning Petitions:

The Board shall hold a public hearing to consider the petition to establish a zoning district, enlarge, or change a zoning district or rezone any or all of an individual property. The Board will consider the recommendations of the Commission and any other written or verbal information relative to the petition. The notice of hearing shall be published by the County Auditor for at least two (2) successive weeks. The Board, by resolution, shall either accept or reject the petition and a summary of the action shall be published once and take effect on the twentieth day after publication (SDCL 11-2-29).

B. Appeal to the Board:

Appeals from any decision of the Commission may be taken to the Board by any person or persons, jointly or severally, aggrieved by any decision of the Planning Commission or Director. An appeal to the Board should be made at the time the Board reviews the decision of the Commission.

C. Appeal to the Court:

Appeals from any decision of the Board may be taken by any person or persons, jointly or severally, aggrieved by the decision of the Board, or any taxpayer, or any officer, department, board or bureau of the County, to the court with competent jurisdiction. Such appeal shall be represented to the court within thirty (30) days after the filing of the decision in the office of the Board.

SECTION 506 - BUILDING PERMITS

No building or other structure shall be erected, constructed, enlarged, or moved without a permit therefore issued by the Planning and Zoning Director. No Building Permit shall be issued by the Director, except in conformity with the provisions of these Zoning Ordinances, unless he/she receives a written order from the Board of Adjustment or the Board in the form of an administrative review, Conditional Use, or Variance as provided in this Zoning Ordinance.

Building Permits are issued to ascertain that the proposed structure is in compliance with the zoning requirements of the district in which it is located. Building Permits may be issued by the Planning Director for existing legal nonconforming structures not meeting the minimum setback requirements, provided there is not an increase in the footprint of the structure. When applicable, the permit is reviewed by the County Environmental Technician for compliance with wastewater disposal and domestic water standards.

Residential, commercial, and industrial structure Building Permits for individual units shall fill the requirements for Construction Permits (Section 507). The applicant shall submit details of a Construction Permit included with the details for the Building Permit at the time of application.

A plot plan showing the location of the structure on the lot or tract with the yard setback distances and all recorded easements shall be included with each building permit. The location of wells, drainfields, easements, and driveways shall be included when applicable. No permit shall be issued for a building, structure, or other development that is affixed to a permanent foundation which conflicts with any recorded easement.

SECTION 507 - CONSTRUCTION PERMITS (Effective 9/25/13)

A. Erosion and Storm Water Control

1. Administration

a. Requirement of Storm Water Regulations:

On November 16, 1990, the Environmental Protection Agency (EPA) promulgated regulations to improve the quality of storm water from earth disturbing activities and prevent illicit discharges from non-point sources. The purpose of Section 507(A) is to mitigate soil erosion and deposition of sediment and prevent illicit discharges to drain systems to the maximum extent practicable. ~~The intent of Section 507(A) is to comply with the requirements of the EPA's Phase II Storm Water Regulations.~~

b. Compatibility with Other Permit and Ordinance Requirements:

Section 507(A) is not intended to interfere with, abrogate, or annul any municipal Ordinance, rule or regulation, statute, or other provision of law. The requirements of Section 507(A) should be considered minimum requirements, and where any provision of

Section 507(A) imposes restrictions different from those imposed by any municipal Ordinance, rule, regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

c. Storm Water Quality Manual:

Pennington County shall furnish criteria and information, including specifications and standards, for the proper implementation of storm water and erosion control measures in the form of a manual. The Planning Director shall direct and require that all construction activity be performed in compliance with The Pennington County Storm Water Quality Manual (herein after referred to as "Manual"). Storm water treatment practices that are designed and constructed in accordance with the standards in the Manual shall be presumed to meet the minimum Water Quality Standards. The Manual shall be compiled by the Planning Director. It shall include a list of acceptable storm water treatment practices, including specific design criteria, operation requirements, and maintenance requirements for each storm water practice. The Manual may be updated, revised, or expanded from time to time, at the discretion of the Planning Director, based upon advances and improvements in engineering, science, monitoring, and local experience.

2. Definitions:

See Section 103- Definitions.

3. Construction Permits and Erosion Control:

a. Purpose

During Construction Activities, soil is vulnerable to erosion by wind and water. Eroded soil can reduce water quality, adversely affect aquatic life, and contribute to exceedences of water quality standards. Eroded soil impacts ditches, lakes, ponds, streams, and storm drains by accumulation of sediments which eventually require dredging or other removal techniques. Also, clearing and grading of land can causes loss of native vegetation. The purpose of Section 507(A) is to mitigate erosion during Construction Activities.

b. Construction Permit

1. A Construction Permit is required prior to persons engaging in any excavation, clearing, or land disturbance greater than or equal to 10,000 square feet, unless the disturbance is exempt under Section 507(A)(3)(b)(iv).
2. The following requirements shall be met before a Construction Permit is issued, if the disturbance covers an area of one (1) acre or more:
 - The applicant shall obtain coverage under a General Permit for Storm Water Discharges Associated with Construction Activities through DENR, as required by ARSD 72:52:01 through 72:52:11. The applicant shall include the DENR's General Permit number on the Construction Permit Application.
 - The applicant shall obtain an Air Quality Construction Permit from the City of Rapid City in those areas defined in Section 102(A) of Pennington County Ordinance No. 12. The applicant shall include the permit number on the Construction Permit Application.
3. A Construction Permit shall designate the name, address, and phone number of the person(s) responsible for Erosion Control implementation and maintenance.
4. Exemptions – No Construction Permit will be required from Pennington County for the following activities:
 - Work in lands zoned General Agricultural District for construction that is agriculturally related.
 - Construction Activity covering an area of less than 10,000 square feet.
 - Clearing for a Fire Mitigation Plan.

Disturbances exempt from Construction Permits under Section 507(A)(3)(b)(iv) may still require other federal, state, or county permits.

5. All Construction Permits will be issued for a period of one (1) year but may be renewed for a period of one (1) year upon a site inspection and approval by the Planning Director.

6. Any person who performs Construction Activity without first obtaining a Construction Permit, as required by Section 507(A), commits a violation of that Section and is subject to the penalties set forth in Section 513 of this Ordinance.

c. Construction Permit Submittal Requirements

Before a Construction Permit may be issued, the applicant must submit to the Planning Director:

1. The name, address, and telephone number of the applicant and the person who prepared the Site Plan or SWPPP, and a description of the overall project, location, and type of Construction Activity.
2. Either a Site Plan or SWPPP:
 - Site Plan – Must include a legible map identifying the area to be disturbed, slopes, drainage, structures, utilities, waterways, floodplain, storm water inlets, and property lines, as well as specific measures that will be used to control sediment and erosion. The plan will also include a designated entry point, concrete washout area (if required), and measures to protect the nearest downstream storm water inlets (if applicable). The Site Plan will identify practices to prevent mud tracking from vehicles and equipment on the street. The minimum map size is 8½" x 11".
 - SWPPP - If the applicant obtained coverage under the General Permit for Storm Water Discharge from DENR, the applicant may submit a copy of the SWPPP required by DENR instead of a Site Plan.
3. Controls - The applicant shall identify the type and location of all BMP's necessary to achieve soil stabilization on the site itself, including stock piles of any soil, rock, or any additional landscaping materials on the site.
4. Stabilization Practices - The permit application shall include a description and schedule of interim and permanent stabilization practices, a record of the dates when major grading activities occur, when construction activities temporarily or permanently cease on a portion of

the site, and when stabilization measures are initiated. The applicant shall also specify the date on which final stabilization, as defined by Section 507(A)(5)(b), shall be completed.

d. Maintenance and Inspection

1. All erosion and sediment control facilities and measures shall be maintained in accordance with Construction Permit conditions.
2. The Planning Director may enter the property to which the Construction Permit applies to conduct on-site inspections and request inspection records.
3. Frequency of inspections:
 - Work authorized by Construction Permits where the disturbance is at least 10,000 square feet but less than one (1) acre may be inspected by the Planning Director:
 - At least once during the period of construction;
 - Within 24 hours following storm events of least 0.5" or a snowmelt event that causes surface erosion; and,
 - Following completion of Final Stabilization and/or remediation.
 - Work authorized by Construction Permits where the disturbance is greater than or equal to one (1) acre and the property is located within the designated MS4 shall be inspected by the owner of the property and/or the contractor:
 - Weekly during the period of construction ~~OR monthly if no Construction Activity is occurring due to inclement weather following stabilization;~~
 - Within 24 hours following storm events of at least 0.5" or a snowmelt event that causes surface erosion; and,
 - Following completion of Final Stabilization and/or remediation.

Records of all on-site inspections shall be available to the Planning Director.

- Work authorized by Construction Permits where the disturbance is greater than or equal to one (1) acre and the property is located outside the designated MS4 shall be inspected by the owner of the property and/or the contractor:
 - Weekly during period of construction OR monthly if no Construction Activity is occurring due to inclement weather following stabilization;
 - Within 24 hours following storm events of at least 0.5" or a snowmelt event that causes surface erosion; and,
 - Following completion of Final Stabilization and/or remediation.

Records of all on-site inspections shall be available to the Planning Director.

4. The approved Construction Permit and Site Plan or SWPPP shall be maintained at the site during the progress of the Construction Activity. Records of the inspections must be kept with the Site Plan or SWPPP and Construction Permit, and the Site Plan or SWPPP must be updated as site conditions change.
5. If, upon inspection, existing site conditions are found to be in non-compliance with the approved Construction Permit, a Stop-Work Order may be issued by the Planning Director as provided in Section 507(A)(7)(a).
6. A revised Construction Permit Application and Site Plan or SWPPP shall be submitted for review and approval if major revisions are needed to comply with the requirements of Section 507(A). No additional fees are required for revisions if they are made before the expiration date of the original Construction Permit.
7. Any person who impedes, hinders, or attempts to prevent an inspection authorized by Section 507(A) commits a violation which and is subject to the penalties set forth in Section 513 of this Ordinance. Any person who fails to maintain the required Construction Permit, Site Plan or

SWPPP, or inspection records at a site where Construction Activity is performed commits a violation and is subject to the penalties set forth in Section 513 of this Ordinance.

e. Additional Requirements

1. It shall be the responsibility of the Permittee to obtain approval from all required agencies (i.e., DENR, United States Army Corps of Engineers, Federal Emergency Management Agency) for any waterway crossings to be installed if a watercourse will be crossed regularly during Construction Activity.
2. If the site is located within the 100-year floodplain, a Floodplain Development Permit must be issued prior to any work being done in the floodplain. A copy of the Floodplain Development Permit must be submitted with the documents listed in Section 507(A)(3)(c).
3. When a new owner purchases a construction site after issuance of a Construction Permit, the current Permittee is responsible for notifying the new owner(s) of the Construction Permit requirements. Construction Permit coverage shall be transferred to the new owner. The new owner will be responsible for final stabilization as specified in Section 507(A)(5)(b).
4. If control measures do not achieve Final Stabilization within the timeframe specified in Section 507(A)(5)(b)(iv), the Planning Director may require the Construction Permit holder to submit an updated SWPPP or a Site Plan prepared by a professional engineer. The Planning Director will establish a timeline for Final Stabilization under the updated SWPPP or Site Plan.
5. Any person who performs Construction Activity without obtaining approval for waterway crossings as required by Subsection (i), above, commits a violation and is subject to the penalties set forth in Section 513 of this Ordinance. Any person who performs Construction Activity without obtaining a Floodplain Development Permit as required by Subsection (ii), above, commits a violation and is subject to the penalties set forth in Section 513 of this Ordinance.

4. MS4 Illicit Discharge Detection and Prevention

a. Purpose

Section 507(A) establishes methods for controlling the introduction of pollutants into the MS4 in order to comply with requirements of the NPDES Storm Water Permit process. The objectives of Section 507(A) are:

1. To regulate the contribution of pollutants to the MS4 by storm water discharges by any user;
2. To prohibit Illicit Connections and Discharges to the MS4; and,
3. To establish legal authority to carry out all inspection, surveillance, and monitoring procedures necessary to ensure compliance with Section 507(A).

b. Applicability

Section 507(A) shall apply to all water entering the MS4 generated on any developed and undeveloped lands unless explicitly exempted in Section 507(A)(4)(c)(ii).

c. Discharge Prohibitions

1. No person shall discharge or cause to be discharged into the MS4 or watercourses any materials other than storm water, including but not limited to, pollutants or other materials that cause or contribute to a violation of applicable water quality standards.
2. Exemptions - The commencement, conduct or continuance of any Illicit Discharge to the Storm Drain System is prohibited except as described as follows:
 - Water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, sump pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wetland flows,

dechlorinated swimming pools, fire fighting activities, and any other water source not containing Pollutants.

- Discharges authorized in writing by the Planning Director as being necessary to protect public health and safety.
 - Dye testing, if authorized in writing by the Planning Director.
 - Any non-storm water discharge permitted under a NPDES Storm Water Permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the United States Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the Storm Drain System.
3. Prohibition of Illicit Connections - The construction, use, maintenance, or continued existence of Illicit Connections to the Storm Drain System is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable at the time of connection.
4. Any person who causes or allows a discharge prohibited by Subsection (iii), above, commits a violation and is subject to the penalties set forth in Section 513 of this Ordinance. Any person who constructs, maintains, or uses an illicit connection prohibited by Subsection (iii) commits a violation and is subject to the penalties set forth in Section 513 of this Ordinance.

d. Suspension of MS4 Access

1. Suspension due to Illicit Discharges in emergency situations - The Planning Director may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or

welfare of persons, or to the MS4 or Waters of the State. If the violator fails to comply with a suspension order issued by the Planning Director, the Planning Director may take such steps as he or she deems necessary to minimize damage to the MS4 and the Waters of the State and to minimize danger to the health and welfare of persons.

2. Suspension due to the detection of Illicit Discharge – The Planning Director may terminate the MS4 access of any person discharging into the MS4 in violation of Section 507(A), if such termination would abate or reduce an Illicit Discharge. The Planning Director will notify a violator in writing of the date on which access is suspended.
3. A person whose access to the MS4 is suspended under the provisions of Section 507(A) may apply in writing to the Planning Director to have access to the MS4 reinstated.
4. Any person whose access to the MS4 has been suspended pursuant to Section 507(A) and who accesses or attempts to access the MS4 prior to reinstatement by the Planning Director commits a violation and is subject to the penalties set forth in Section 513 of this Ordinance.

e. Industrial or Construction Activity Discharges

Proof of compliance, by written notice from the discharger, with a NPDES Storm Water Permit shall be required to the Planning Department prior to any discharges to the MS4, when applicable.

f. Monitoring of Discharges

1. Applies to all facilities that have storm water discharges associated with Industrial Activity and/or Construction Activity which requires a Construction Permit.
2. Access to Facilities

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- The Planning Director shall be permitted to enter and inspect facilities subject to regulation under Section 507(A)(4) as often as may be necessary to determine compliance. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary

arrangements to allow access to the Planning Director.

- Facility operators shall allow the Planning Director ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of a NPDES Storm Water Permit to discharge storm water, and the performance of any additional duties as defined by municipal, county, state, or federal law.
- The Planning Director shall have the right to set up on any permitted facility such devices as he or she determines necessary to conduct monitoring and/or sampling of the facility's storm water discharge.
- The Planning Director may require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure storm water flow and water quality shall be calibrated according to manufacturer recommendations to ensure their accuracy.
- Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Planning Director and shall not be replaced. The costs of clearing such access shall be borne by the operator.
- Any person who impedes or hinders any inspection, access, or monitoring allowed under Section 507(A) commits a violation and is subject to the penalties set forth in Section 513 of this Ordinance. Any person who fails to install monitoring equipment as directed by the Planning Director under Subsection (i) commits a violation and is subject to the penalties set forth in Section 513 of this Ordinance. Any person who fails to remove an obstacle after a request by the Planning Director under Subsection (ii) commits a violation and is subject to the penalties set forth in Section 513 of this Ordinance.

g. Watercourse Protection

Every person owning, occupying, or leasing property through which a watercourse passes shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner, occupant, or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

Any property owner, occupant, or lessee who fails to maintain a watercourse as required by Section 507(A) commits a violation and is subject to the penalties set forth in Section 513 of this Ordinance.

h. Notification of Spills

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information of any known or suspected release of materials which are resulting or may result in Illicit Discharges or pollutants discharging into storm water, the Storm Drain System, or Waters of the State, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the Planning Director and DENR no later than the next business day. Verbal notice, in person or by phone, shall be confirmed by written notice, addressed and mailed to the Pennington County Planning Department (315 Saint Joseph St., Suite 118, Rapid City, SD, 57701), and postmarked within three (3) business days of the verbal notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least seven (7) years.

Any person who fails to notify the Planning Director of a spill as required by Section 507(A) commits a violation and is subject to the penalties set forth in Section 513 of this Ordinance.

5. Lands Modified by Human Activities

a. Purpose

The purpose of this Section is to mitigate impacts of storm water runoff from lands modified by human activities by implementing erosion and sediment control measures and final stabilization of Construction Activity. Storm water runoff from lands modified by human activities can degrade surface waters and may cause exceedences to Water Quality Standards. Development increases the amount of impervious surface in watersheds as farmland, forests, and meadows are converted into structures with rooftops, driveways, sidewalks, roads, and parking lots that do not absorb storm water. Storm water runoff washes over impervious areas, picking up pollutants, which eventually flow, untreated, into creeks, streams and rivers.

b. Erosion and sediment control measures

All sites, including, but not limited to, construction sites, vacant lots or homes without landscaping, shall maintain erosion and sediment control measures, in accordance with the Manual, to prevent soil from going off-site into lands adjoining the site, public rights-of-way, and into the Storm Drain System. These control measures shall be repaired by the Permittee within 24 hours of notice of failure from Pennington County.

c. Final Stabilization

1. Final Stabilization occurs when all soil disturbing activities at the site have been completed and:

- Uniform perennial vegetative cover of at least 70% of the native background vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures; or,
- Equivalent permanent stabilization measures (such as riprap, retaining walls, or geotextiles) have been utilized.

2. When background native vegetation will cover less than 100% of the ground (e.g., arid areas), the 70% coverage criteria set forth above is adjusted to require 70% of the naturally occurring coverage. For example, if native

vegetation covers 50% of the ground, 70% of 50% (.70 X .50 = .35) would require 35% total cover for Final Stabilization. On sites with no natural vegetation, no vegetative stabilization is required.

3. For individual lots in residential construction, Final Stabilization requires that either:
 - The Permittee has completed Final Stabilization as specified in Section 507(A)(5)(b); or,
 - The Permittee has established temporary stabilization (as defined in the Manual) for an individual lot before the property owner assumes control of the property, and the Permittee informs the property owner of the need for and requirements of Final Stabilization.
4. Final Stabilization must be completed within one (1) year of project completion or two (2) years from the Construction Permit issue date, whichever occurs sooner.
5. Any person who fails to complete Final Stabilization as it is defined in Section 507(A) commits a violation and is subject to the penalties set forth in Section 513 of this Ordinance.

d. Special Conditions for Final Stabilization

Stabilization of Vacant Lots and New Building Sites

1. Vacant lots and new building sites shall be maintained and stabilized to the extent necessary to prevent debris transport from wind or water erosion, washout of debris onto adjacent lots or sites, and tracking of debris onto the street. The Planning Director may require the Permittee to provide periodic street sweeping if other measures are not sufficient and debris is tracked or washed onto the street.
2. Effective, permanent Erosion Control measures, such as seeding and mulching the disturbed area, shall be implemented immediately after the work is completed in the area, but in no case later than 14 days after the Construction Activity has stopped. Stabilization measures must also be taken on exposed areas where Construction

Activities have temporarily stopped and are not expected to occur again for at least 21 days.

3. Any person who fails to maintain and stabilize a site as required by Subsection (i), above, or who fails to provide street sweeping after being directed to do so by the Planning Director under Subsection (i), above, commits a violation and is subject to the penalties set forth in Section 513 of this Ordinance. Any person who fails to provide the stabilization and control required by Subsection (ii) commits a violation and is subject to the penalties set forth in Section 513 of this Ordinance.

6. Post Construction Run-off Control

a. Purpose

The purpose of Section 507(A) is to establish minimum storm water management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing in watersheds within Pennington County. Section 507(A) seeks to meet that purpose through the following objectives:

1. Minimize increases in storm water runoff from any development in order to reduce flooding, siltation, increases in stream temperature and stream bank erosion, and to maintain the integrity of stream channels;
2. Minimize increases in nonpoint source pollution caused by storm water runoff from development which would otherwise degrade local water quality;
3. Minimize the total annual volume of surface water runoff which flows from any specific site during and after development so as not to exceed the pre-development hydrologic regime; and,
4. ~~Reduce storm water runoff rates and volumes, soil erosion~~ and nonpoint source pollution, wherever possible, through storm water management controls and ensure that these management controls are properly maintained and pose no threat to public safety.

b. Applicability

All new development or redevelopment, which causes an increase in impervious area greater than 15%, shall be required to provide storm water treatment of the runoff generated by the first 0.5" of rainfall. (See Manual for impervious area requirements.)

c. Minimum Control Requirements

All storm water management practices will be designed so that the specific storm frequency storage volumes (e.g., recharge, water quality, channel protection, 10 year, 100 year) as identified in the Manual are met, unless the applicant is exempt from such requirements under the provisions of Section 507(A)(3)(b)(iv).

If the minimum control requirements are inadequate or if hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the Planning Director may require additional measures as described in the Manual.

d. Pretreatment Requirements

Every storm water treatment practice shall have an acceptable form of water quality pretreatment, in accordance with the pretreatment requirements found in the current Manual.

7. Enforcement

a. Stop Work Order

The Planning Director may issue a Stop Work Order under the following circumstances:

1. A site is being maintained in a manner which violates Section 507(A);
2. Construction Activity is occurring contrary to the conditions of a Construction Permit;
3. Construction Activity is occurring without a permit required under Section 507(A) or other local, state, or federal law; or,
4. Site development is occurring in a manner which does, or is likely to, endanger the health, welfare, or safety of persons residing, working, or traveling near the site.

A Stop Work Order shall be issued in writing and delivered to the person responsible for the site, or his or her employee or agent. All Construction Activity and other site development shall cease at the time the Planning Director delivers the Stop Work Order, except such work to stabilize or secure the site as allowed or required by the Planning Director. Construction Activity and site development shall resume only when the Stop Work Order is rescinded in writing by the Planning Director.

Any person who fails to comply with a Stop Work Order issued by the Planning Director commits a violation and is subject to the penalties set forth in Section 513 of this Ordinance.

b. Injunction

In addition to all other remedies available to Pennington County to prevent, correct, or abate violations of Section 507(A), the Planning Director may seek injunctive relief pursuant to SDCL Chapter 21-8 against any property owner, Permittee, or other person in violation of Section 507(A) or against any Permittee in violation of the conditions of a Construction Permit issued pursuant to Section 507(A). The injunctive relief authorized by Section 507(A) may include a reparative injunction requiring any party who commits a violation of Section 507(A) to bring or return any affected property to a condition which does not constitute a nuisance, as that term is defined in Section 507(A)(7)(d).

c. Nuisance

Violations of Section 507(A) which endanger the comfort, repose, health, or safety of persons, or which render persons insecure in life or in the use of property, are hereby declared nuisances. A violation of Section 507(A) constituting a nuisance is subject to abatement under the provisions of SDCL Chapter 21-10, SDCL 7-8-33, and the applicable Pennington County Ordinances. Summary abatement of nuisances is authorized, if deemed necessary by the Planning Director.

d. Performance Bond

The Planning Director may, in his or her discretion, require any applicant for a Construction Permit issued under Section 507(A) to post a performance bond for any control measures, stabilization, or other work proposed in the applicant's Site Plan or SWPPP. The Pennington County Board of Commissioners may authorize the Planning Director to use the performance bond to complete any

work proposed in the Permittee's Site Plan or SWPPP if the Permittee cannot or will not complete such work.

e. Inspection Warrant

The Planning Director and/or any certified law enforcement officer in Pennington County may obtain an inspection warrant as set forth in SDCL Chapter 34-43 to verify that the requirements of any Construction Permit issued under Section 507(A) are complied with and to investigate any suspected violations of Section 507(A).

f. Review by County Commissioners

Any action taken by the Planning Director in administering or enforcing Section 507(A) may be reviewed by the Pennington County Board of Commissioners upon the request of any person affected by such action.

g. Conflicting Ordinances

If Section 507(A), or any part or portion thereof, is in conflict with any other Pennington County Ordinance, Section 507(A) shall be deemed to supersede any conflicting ordinance in matters relating to storm water and erosion control.

B. Mining Permits

No extraction of any mineral or substance exceeding 100 cubic yards from the earth shall be conducted without a Mining Permit issued by the Commission. No Mining Permit shall be issued except in conformity with the provisions of this Zoning Ordinance unless he/she receives a written order from the Board of Adjustment in the form of an Administrative Review, Conditional Use, or Variance, as provided in this Zoning Ordinance. In addition to an application, all Mining Permits will require a site plan to be submitted for review. Detailed information, including a transportation plan, the location, amount, and type of material to be extracted shall be shown on a site plan. A written statement shall be submitted indicating the scope, duration of the mining activity, and plan outlining reclamation to be done at the conclusion of extraction. Mining Permits shall not be required for work in the A-1 General Agriculture District for construction, which is agriculturally related.

SECTION 508 - ZONING OR REZONING

A. Application:

A petition for a change or addition to present zoning districts as shown on the Official Zoning Map may be filed with the Commission. Petitions may be filed by a landowner of record for a requested change to alter the zoning on all or a part of his property or by landowners of thirty (30) percent of the land in the area

requesting the change. If the zoning change is different from the Pennington County Comprehensive Plan, the applicant must first amend the Comprehensive Plan.

The Comprehensive Plan amendment notification shall be mailed with the rezoning notification request and shall be to all property owners within five hundred (500) feet and all agriculturally zoned property within two (2) miles of the property or district for which the request is filed. Said notice should state the changes requested and the legal description of the property as determined by the records of the Director of Equalization.

A rezoning request requires that an effort be made by certified mail with return receipt requested to notify all property owners (inclusive of Contract for Deed buyers) of record within five hundred (500) feet inclusive of right-of-way of the property or district for which the request is filed. Said notice should state the changes requested and the legal description of the property and shall be made by certified mail with return receipt requested to all property owners (inclusive of Contract for Deed buyers) within five hundred (500) feet inclusive of right-of-way as determined by the records of the Director of Equalization.

B. Requirements for Zoning Change:

Before the zoning change or rezone can become effective, the following steps must be complied with:

1. After public notice has been advertised once, no less than fifteen (15) days prior to the public hearing, the public hearing shall be held before the Commission. The Commission shall accept or reject the petition and recommend this action to the Board.
2. The Board shall hold a public hearing to consider the recommendation of the Commission. Such hearing shall be held regardless of the type of recommendation made by the Commission. The hearing by the Board must be advertised once a week for two (2) successive weeks prior to the hearing. This advertisement may be concurrent with the notice of hearing by the Commission.
3. The action of the Board must be published once in the official newspaper and shall become effective on the twentieth (20) day after publication.
4. The Planning Department shall provide a sign, which is to be posted by the Planning Department on or near the property involved in the rezoning request in a location with the greatest public visibility. If the property is ~~not adjacent to any public right-of-way, the sign shall be placed at the~~ access point to the property along the nearest public right-of-way. Said sign shall be so placed no less than ten (10) days prior to the date of the public hearing before the Planning Commission and shall remain placed until a decision has been made by County Board.

SECTION 509 - VARIANCE

The purpose of the Variance is to modify the strict application of the specific requirements of these Zoning Ordinances in the case of exceptionally irregular, narrow, shallow or steep lots, or other exceptional physical conditions; whereby such strict

application would result in practical difficulty or unnecessary hardship which would deprive an owner of the reasonable use of his land.

A. Application:

Application for a Variance may be made when the literal interpretation of these Zoning Ordinances caused undue hardship or the Planning Director has denied a Building Permit in writing.

B. Public Hearing:

Upon receipt of an application and fee, the Board of Adjustment shall hold a public hearing having first given ten (10) days' notice. Such notice of the time and place of such hearing shall be published in an official paper of general circulation. The Board of Adjustment shall consider and decide all applications for variances within thirty (30) days of such public hearing and in accordance with the standards provided below. Approval of a Variance request shall require a two-thirds vote of the full Board of Adjustment.

C. Standards and Variances:

In granting a Variance, the Board of Adjustment shall ascertain that the following criteria are met:

1. Variances shall be granted only where specific circumstances or conditions (such as exceptional narrowness, topography, or siting) fully described in the finding of the Board of Adjustment, do not apply generally in the district.
2. Variances shall not be granted to allow a use otherwise excluded from the particular district in which requested.
3. For the reasons fully set forth in the finding of the Board of Adjustment, the aforesaid circumstances or conditions are such that the strict application of the provisions of these Zoning Ordinances would be an unwarranted hardship, constituting an unreasonable deprivation of use as distinguished from the mere grant of a privilege.
4. The granting of any Variance is in harmony with the general purposes and intent of these Zoning Ordinances and shall not be injurious to the neighborhood or detrimental to the public welfare.

D. Requirements for the Granting of a Variance:

Before the Board of Adjustment shall have the authority to grant a Variance, the person claiming the Variance has the burden of showing:

1. That the granting of the permit shall not be contrary to the public interest.
2. That the literal enforcement of this Zoning Ordinance shall result in unnecessary hardship.
3. Notice of a request for a Variance, consisting of a sign one (1) foot by two (2) feet shall be posted on the frontage of the property for which a

variance is requested. A good faith effort must be made by the applicant to notify all property owners (inclusive of Contract for Deed buyers) holding property within five hundred (500) feet of the property or district for which the request is filed. Said notice shall state the change requested and the legal description of the property and shall be sent by certified mail with return receipt requested to all property owners (inclusive of Contract for Deed buyers) within five hundred (500) feet inclusive of right-of-way as determined by the records of the Director of Equalization.

SECTION 510 - CONDITIONAL USE PERMITS

A Conditional Use Permit (CUP) is an approval by the Pennington County Planning Commission for certain uses listed in the Pennington County Zoning Ordinance. Within each zoning district there are uses that are permitted by right, and other uses allowed only under certain conditions. A CUP is needed for any use identified in the Zoning Ordinance as a Conditional Use.

A. Application:

1. Conditional Use Permit applications shall be obtained from the Planning Department. An application shall be accompanied by such site plans or drawings as are necessary for the Planning Commission to make a determination on the request.
2. A good faith effort must be made by the applicant to notify all property owners (inclusive of Contract for Deed buyers) of land laying within five hundred feet (500) feet, inclusive of right-of-way, of the outer boundaries of the property involved in the request. The list of landowners to be notified shall be determined by records of the Director of Equalization. The Planning Department shall provide the applicant with the "Notice of Hearing" letters for this purpose, and the notices are to be sent by the applicant to all parties on the aforementioned list by certified mail with return receipt requested no less than ten (10) days prior to the public hearing on the request held by the Planning Commission.
3. The Planning Department shall provide to the applicant a sign, which is to be posted on the property involved in the Conditional Use Permit request, in a location with the greatest public visibility. Said sign shall be so placed no less than ten (10) days prior to the public hearing on the request held by the Planning Commission.

B. Public Hearing:

Upon receipt of an application and fee, the Planning Commission shall hold a public hearing on the request in a location to be prescribed by the Planning Commission. Said hearing is to be held not less than ten (10) days after publication of a notice of the time and place of such hearing in a legal newspaper of general circulation in the area affected. The Planning Commission shall then decide whether to grant the Conditional Use Permit with such conditions and safeguards as are appropriate or to deny a Conditional Use Permit when not in harmony with the purpose and intent of these regulations. The decision of the Planning Commission shall be final unless an appeal is filed in accordance with Section 510-C.

C. Appeal of Planning Commission Decision:

The decision rendered by the Planning Commission on a Conditional Use Permit may be appealed to the County Board. The applicant or any other person aggrieved by the decision of the Planning Commission shall file a written appeal with the Planning Department within five (5) working days of the Planning Commission's decision. (The County Commissioner serving on the Planning Commission may also request any Conditional Use Permit to be heard before the County Board.) When an appeal is filed, the Planning Director shall present the Planning Commission's decision to the County Board for review. The County Board shall vote to uphold, overrule, or amend the decision of the Planning Commission.

D. Findings:

The following factors may be considered by the Planning Commission in their review of Conditional Use Permit applications:

1. The effect upon the use and enjoyment of other property in the immediate vicinity for the uses already permitted, and upon property values within the immediate vicinity.
2. The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.
3. That utilities, access roads, drainage, and/or other necessary facilities are provided.
4. That the off-street parking and loading requirements of these Zoning Ordinances are met.
5. That measures are taken to control offensive odor, fumes, dust, noise, vibration, and lighting (inclusive of lighted signs), so that none of these will constitute a nuisance.

E. Time Limit on Approval:

1. A Conditional Use Permit shall automatically expire if:
 - a. The use for which the Conditional Use Permit was granted has ceased for a period of one year or more; or,
 - b. ~~The use for which the Conditional Use Permit was granted has not~~ been established, according to the terms and conditions of the Conditional Use Permit, within two years following the date of approval.
2. The Conditional Use Permit can be renewed for one additional one-year period, if a request for renewal is filed not less than 14 days prior to the expiration of the permit. The cost to renew the permit shall be \$100.00, which includes a new list of property owners within 500 feet from the subject property and "Notice of Hearing" letters. Said letters are to be mailed out by the applicant to all parties on the aforementioned list by

certified mail with return receipt requested no less than ten (10) days prior to the public hearing on the request held by the Planning Commission.

F. Building Permit.

A Building Permit shall be issued only after the expiration of the appeals time period (five (5) working days following action by the Planning Commission).

G. Compliance:

Any Conditional Use Permit granted under the provisions of these Zoning Ordinances shall be established and conducted in conformity with the terms of such permit and of any conditions attached thereto. Failure to comply with said terms or conditions constitutes cause for the County to pursue legal remedies and/or to revoke the Conditional Use Permit.

H. All Conditional Use Permits in effect at the time of the Courts declaration of the invalidity of the Pennington County Zoning Ordinance on January 7, 1994, issued under such Pennington County Zoning Laws, are hereby ratified and approved pursuant to the terms of such permits and any conditions attached thereto.

I. Amendments:

Amendments shall be processed in the same manner as required for a separate Conditional Use Permit.

SECTION 511 - FEES

All fees pertaining to these Zoning Ordinances are payable to Pennington County and shall be levied and collected by the Planning Department as provided below. All fees shall be rounded to the nearest whole dollar.

A. Building Permits:

1. Residential/Agriculture: Erection, construction, and moving of buildings, buildings, additions, accessory structures, porches, decks, fencing, and finishing unfinished residential space: \$25.00 or .004 of the construction costs, whichever is greater. (Example: estimated cost of structure - \$125,000 x .004 = \$500.00.)
2. Commercial/Industrial: Erection, construction, and moving of commercial and/or industrial buildings, additions, accessory structures, porches, decks, fencing, and finishing unfinished space: \$100.00 or .1 of the construction cost of buildings, parking areas, and roads combined, whichever is greater. (Example: estimated cost of structure - \$125,000 x .01 = \$1,250.00.)
3. Temporary Building Permit: \$60.00
4. Removal of building: Building Permit required (No charge).
5. Renewal of Building Permit: \$50.00
6. South Dakota Housing acreage letter: \$25.00

7. A Building Permit is required for a fence over eight (8) feet in height and the fence must be located in accordance with the setbacks of the relevant zoning district.
 8. EXCEPTIONS: a Building Permit is not required under the following circumstances:
 - a. All accessory structures that are 144 square feet or less and not permanently anchored to the ground. Structures must still meet all minimum setback requirements.
 - b. On agricultural properties of 40 acres or more: portable buildings, such as those used in calving/lambing operations, which are moved from place to place on the farm or ranch as part of the agricultural operation.
 - c. Fences eight (8) feet or under in height.
 - d. Fences of any height on agricultural properties of 40 acres or more.
- B. Sign Permits:
1. On-premise or Business Signs: \$100.00
 2. Off-premise: \$260.00
 3. Community Signs: \$60.00
- C. Construction: \$250.00:
1. Exception: A Construction Permit is not required if the Construction Activity is related to an approved Building Permit.
- D. Mining Permit: \$250.00
- E. Variance: \$300.00
- F. Conditional Use Permit: \$300.00. If a structure is involved, a Building Permit is also required, pursuant to Section 511-A.
1. Mobile Home Parks: A Building Permit is required for the placement of any mobile, manufactured or modular home within an approved mobile home park at \$50.00.
 2. Wind Farm: \$1,000, plus \$200.00 for each tower.
 3. Vacation Home Rental Conditional Use Permit Review Fee: \$100.00 per review.
- G. Rezoning: \$300.00

- H. Planned Unit Development: \$930.00 (Original).
 - 1. Major Amendments: \$400.00
 - 2. Minor Amendments: \$300.00
- I. Plat: See Pennington County Subdivision Regulations for Fees
- J. Plat Vacation: \$350.00
- K. Vacation/Relocation of Easement, Right-of-Way: \$250.00
- L. Vacation of Section Line: \$350.00
- M. Zoning Ordinance Amendments: \$350.00
- N. Subdivision Regulations Variance: \$250.00
- O. Floodplain Development Permits: \$75.00
- P. Section Line Opening: \$75.00
- Q. Road Construction Within A Section Line Right-of-Way: \$150.00
- R. Telecommunications Facility Permit: \$600.00
- S. Telecommunications Administrative Review Permit: \$300.00
- T. Tax Increment Financing District Submittal: \$1,000.00
- U. Sign Deposit: A \$50.00 refundable deposit is required for signs obtained from the Planning Department for Variances, Conditional Use Permits, Rezoning, Planned Unit Developments, and Comprehensive Plan Amendment applications. The \$50.00 deposit is refunded when the sign is returned within six (6) months of County Board action.
- V. Notice of Violation:
 - 1. Any owner of property upon which work has been done for which any permit is required by this Zoning Ordinance, without first securing such permit and paying the prescribed fee, shall be notified according to the following:
 - a. The Planning Department shall send written notification by certified mail, return receipt requested, to the owner of the property informing said owner of the violation and the requirement that a permit be obtained or other required action taken within a specified period. If the property owner does not contact the Planning and Zoning Department within seven (7) business days (excluding weekends and State recognized holidays) from the date of receipt of the letter, the matter may be turned over to the State's Attorney's Office for further legal action under Section 513.

W. Late Charges:

1. Any owner of property upon which work has been done for which a Conditional Use Permit, Variance, Mining Permit, Plat, Rezoning, or Planned Unit Development is required, prior to issuance of said permit, shall pay a doubled application fee, plus a \$500.00 penalty fee.
2. Any owner of property upon which work has been done for which a Construction/Excavation/Fill Permit or Building Permit is required, prior to issuance of said permit, shall pay a doubled application fee.
3. All late charges apply immediately upon discovery of any violation. The party/entity in violation is responsible for all applicable late charges whether or not they have yet to receive notice of said violation(s) as set forth above.
4. The County Board of Commissioners shall have discretion to waive any or all late charges.

- X. Continuations: Any submittal being considered by the Planning Commission or County Board which requires more than one continuation because of the applicant's failure to meet conditions of approval shall be required to pay \$100.00 per continuation. The Board of Commissioners may waive the \$100.00 continuation fee.

SECTION 512 - AMENDMENTS

The regulations, restrictions, areas, and boundaries set forth in these Zoning Ordinances may, from time to time, be amended, supplemented, revised, or repealed as conditions warrant, subject to the following conditions:

A. Application:

An application for a proposed amendment shall be filed with the Planning Department. Amendments may be initiated by a property owner or his designated representative, by a governmental agency, or by the Commission.

B. Public Hearing:

Upon application, the Commission shall hold a public hearing on the proposed amendment. Notice of the public hearing shall be given at least ten (10) days prior in advance by publication in a newspaper having general circulation in the County. The Commission shall then submit its report to the Board. The proposed ~~amendments shall be acted upon by the Board as other ordinances except that a~~ public hearing shall be held prior to the adoption of such Zoning Ordinance. Notice of the time and place when and where such hearing shall occur shall be given at least ten (10) days in advance of the hearing date in a newspaper having general circulation in the County.

C. Restrictions on Applications:

No more than one application for an amendment may be submitted by an individual, or his representative, or agent, in any twelve (12) month period concerning the same or similar amendment to a regulation, restriction, area, or

boundary except upon a showing by the applicant of a material change of circumstances sufficient to justify reconsideration of the proposed amendment. This section shall not apply to a governmental agency or the Commission.

SECTION 513 – RESTRICTIONS ON APPLICATIONS UPON A DECISION OF THE RULING OF THE PLANNING COMMISSION OR COUNTY BOARD

A. Restrictions on Applications:

No more than one application for an Ordinance Amendment, Rezoning, Planned Unit Development, Conditional Use Permit, or Variance, may be submitted by an individual, or his representative, or agent, in any twelve (12) month period concerning the same or similar request except upon a showing by the applicant of a material change of circumstances sufficient to justify reconsideration of the proposed request. This section shall not apply to a governmental agency or the Commission.

If the request is denied without prejudice, the applicant may apply for the same request within a years' time without having to pay the application fees. However, the advertising fee will need to be paid by the applicant and the notice of hearing letters for neighboring property owners must also be completed by the applicant.

SECTION 514 – VIOLATIONS AND PENALTIES

A. In addition to all other remedies available to the County to prevent, correct, or abate Ordinance violations, a violation of these Zoning Ordinances is also punishable by a fine and/or imprisonment, pursuant to SDCL 7-18-2, as provided below:

1. A fine not to exceed \$500.00 for each violation or by imprisonment for a period not to exceed 30 days for each violation, or by both the fine and imprisonment. Each day the violation continues shall constitute a separate violation. The date of the first violation shall be the date upon which the property owner first received notice of the violation

SECTION 515 - SEVERABILITY

These Zoning Ordinances and the various parts, sections, subsections and clauses thereof, are hereby declared to be severable. If any part, sentence, paragraph, subsection, section, or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, it is hereby provided that the remainder of these Zoning Ordinances shall not be affected thereby.

SECTION 516 - REPEAL

Any ordinance or regulation or portion thereof in conflict with the provisions contained herein is hereby repealed.