

APPENDIX A – ZONING ORDINANCE

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ARTICLE 1

GENERAL PROVISIONS

Section 101 General

This Ordinance shall be known, cited and referred to as “The Official Zoning Ordinance of the City of Freeman, Hutchinson County, South Dakota, to the same effect as if the full title were stated.

Section 103 Intent and Purpose

This ordinance is adopted for the following reasons:

1. To provide for the citizens of Freeman adequate light, pure air, safety from fire and other dangers; to conserve the value of land and buildings; to lessen or avoid congestion of traffic in the public streets; and to promote the public health, safety, comfort, convenience, and general welfare;
2. To promote the character and stability of residential, business, and manufacturing areas within the City of Freeman and to promote the orderly and beneficial development of such areas;
3. To preserve the esthetic quality of the city, and also historic and cultural areas; and
4. To establish restrictions in order to attain these objectives by adopting a zoning ordinance which will create districts into which the city is divided, and provide for the requirements upon the intensity of the use of land and buildings, off-street parking facilities, the provision for administration and enforcement, the penalties for violation of the ordinance, and the procedure, powers and duties of the Board of Adjustment, Planning Commission, and City Council.

Section 105 Jurisdiction

The provisions of this Ordinance shall apply within the incorporated areas of the City of Freeman, Hutchinson County, South Dakota, as established on the map entitled “The Official Zoning Map of the City of Freeman”.

Section 107 Minimum Requirements

In their interpretation and application the provisions of this Zoning Ordinance shall be held to be minimum requirements for the promotion of public health, safety, welfare, and esthetic quality in the City of Freeman.

Section 109 Relationship With Other Laws

Whenever the provisions of this Ordinance require a greater width or size of yards, courts or other spaces, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required, in any other ordinance, resolution, rule or regulations the provisions of this Ordinance shall govern. Wherever the provisions of any other ordinance, resolution, rule or regulation require a greater width or size of yards, courts, or other open spaces, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by the provisions of this Ordinance, the provisions of such ordinance shall govern.

Section 111 Effect on Existing Agreements

This ordinance does not abrogate existing easements, covenants, or any other private agreements provided that where the regulations of this ordinance are more restrictive (or impose higher standards or requirements) than such easements, covenants, or other private agreements, the requirements of this ordinance shall prevail.

Section 113 Scope of Regulations

Except as may otherwise be provided in the nonconforming uses section of this article, all buildings erected hereafter, all structural alterations or relocations, all uses of land or buildings established and all enlargements of or additions to existing uses occurring after the adoption of this ordinance shall be subject to all regulations of this ordinance which are applicable to the zoning district in which such buildings, uses, or land shall be located.

Section 115 Dimensional Requirements

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

Section 117 Annexations to the City

Any area annexed to the City of Freeman shall, upon such annexation be automatically zoned Urban Transitional until in the waiver provided for amendments to this ordinance, appropriate zoning has been recommended to the City Council by the Planning Commission and the City Council has taken action thereon. The Planning Commission shall submit recommendations for the zoning of the annexed area within three (3) months after the date of annexation.

Section 119 Classification of Unlisted Uses:

1. Purpose - In order to insure that the zoning ordinance will permit all similar uses in each district, the Board of Adjustment, upon its own initiative or upon written application, shall determine whether a use not specifically listed as a permitted, accessory or a conditional use in a District shall be deemed a permitted, accessory or conditional use in one or more districts on the basis of similarity to uses specifically listed.
2. Application - Application for determination that a specific use should be included as a permitted, accessory or conditional use in a District shall be made in writing to the Zoning Administrator and shall include a detailed description of the proposed use and such other information as may be required by the Board of Adjustment to facilitate the determination.
3. Investigation - The Board of Adjustment shall make or have made such investigations as it deems necessary in order to compare the nature and characteristics of the proposed use with those of the uses specifically listed in the ordinance and to determine its classification.
4. Determination - The determination of the Board of Adjustment shall be rendered in writing within sixty (60) days from application and shall include findings supporting the conclusion.
5. Effective Date of Determination - Within five (5) days following the date of a decision, the Board of Adjustment shall transmit to the City Council and petitioner written notice of the decision, at which time the classification of the unlisted use shall become effective.

ARTICLE 2

DEFINITIONS

Section 201 Definitions

For the purpose of this Ordinance, unless otherwise stated, words used in the present tense include the future; the singular number includes the plural and the plural the singular; the word shall means mandatory, not discretionary; the word may is permissive; the word person includes a firm, association, organization, partnership, trust, company or corporation, as well as, an individual; the word lot includes the word plat or parcel; and the words used or occupied include the words intended, designed, or arranged to be used or occupied.

Section 203 Terms

For the purpose of this Ordinance, certain terms or words used herein shall be interpreted as follows:

Abut - Having a common border with, or being separated from such a common border by a right-of-way, alley, or easement.

Accessory Building or Structure - A subordinate building, the use of which is purely incidental to the main building, is less than one hundred (100) percent of the area of the largest floor of the principal building, and is unattached from the principal building at least ten (10) feet.

Accessory Use - A use on the same lot with and of a nature customarily incidental and subordinate to the principal use of the lot on which it is located.

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

Addition - Any construction that increases the size of a building such as a porch, attached garage or carport, or a new room.

Administrative Review – A process brought forth by the Zoning Administrator to clarify a provision of the Zoning Ordinance. A review may include policy interpretation or procedural questions but shall not include the appeals process as detailed herein.

Adult Arcade - A bookstore, video store, membership club, or other place:

1. To which the public or members of a membership club are invited or admitted, whether or not a membership fee, cover charge, or other consideration is required for admittance; and
2. That provides one or more booths for viewing a live performance, as specified in the definition of an “adult club”, or motion picture films, video cassettes, recordings, cable television shows, computer-generated images, virtual reality experiences, or any other visual media distinguished or characterized by a predominant emphasis on performances involving nudity or sexual conduct.

Adult Bookstore - An establishment having twenty five (25) percent of its gross annual sales or stock-in-trade for sale, rent, lease, inspection, or viewing books, films, video cassettes, recordings, magazines, or other periodicals which are distinguished or characterized by their emphasis on matters depicting, describing, or relating to specific sexual activities or specified anatomical areas, as defined below, and in conjunction therewith having facilities for the presentation of adult entertainment, as defined below, including adult-oriented films, movies, or live performances, for observation by patrons therein

Adult Cabaret - A venue which features topless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators, or similar entertainers for observation by customers as defined herein.

Adult Club - A nightclub, membership club, bar, restaurant, salon, hall, studio, or other place:

1. To which the public or members of a membership club are invited or admitted, whether or not a membership fee, cover charge, or other consideration is required for admittance;
2. That provides, on a regular basis or as a substantial part of the activity on the premises at anytime, a live performance that: includes nudity; is distinguished or characterized by a predominant emphasis on depictions or simulations of sexual conduct; or otherwise constitutes an erotic performance; and
3. A place that provides such a live performance only for viewing by an individual in a booth in accordance with this ordinance is an adult arcade and not an adult club.

Adult Entertainment - Any exhibition of any motion pictures, live performance, display, or dance of any type which has as a significant or substantial portion of such performance, or is distinguished or characterized by an emphasis on, any actual or simulated performance of specified sexual activities or exhibition and viewing of specified anatomical areas, as defined below, appearing unclothed or the removal of articles of clothing to reveal specified anatomical areas.

Adult Entertainment Business - Includes, but is not limited to, adult arcades, adult bookstores, adult cabarets, adult clubs, or adult theaters, each as defined in the following, or a combination of an adult arcade, an adult bookstore, an adult cabaret, an adult club, or an adult theater. An adult entertainment business further means any premises to which public patrons or members are invited or admitted and which are so physically arranged as to provide booths, cubicles, rooms, compartments, or stalls separate from the common area of the premises for the purposes of viewing adult-oriented motion pictures or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, whether or not such adult entertainment is held, conducted, operated, or maintained for a profit, direct or indirect. The terms shall also include, without being limited to, any adult entertainment studio or any premises that is physically arranged and used as such, whether advertised or represented as an adult entertainment studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio or any other similar term or activity.

Adult Theater - A movie theater, bookstore, video store, membership club or other place:

1. To which the public or members of a membership club are invited or admitted, whether or not a membership fee, cover charge, or other consideration is required for admittance; and
2. That provides a room or other area that can accommodate more than one person for viewing motion picture films, video cassettes, recordings, cable television shows, computer-generated images, virtual reality experiences, or any other visual media distinguished or characterized by a predominant emphasis on performances involving nudity or sexual conduct.

Agriculture - The tilling of the soil, the raising of crops, horticulture and gardening, but not including keeping or raising of domestic animals and fowl, except household pets, and not including any agricultural product processing facility or agriculture related industry or business, such as veterinary clinics.

Agriculture Product Processing Facility - A business activity customarily designed to process raw agricultural products into value added products. Agricultural processing facilities include, but are not limited to; feed mills, ethanol plants, soy bean processing facilities, cheese plants, milk processors, packing plants and rendering facilities.

Alley - A way which affords only a secondary means of access to abutting property.

Amendment - A change in the wording or substance of this ordinance or a change in the boundaries or classifications upon the Official Zoning Map.

Amusement Park - A facility, primarily outdoors, that may include structures and buildings, where there are various devices for entertainment including rides, booths for the conduct of games or sale of items, buildings for shows and entertainment and restaurants and souvenir sales.

Apartment - A portion of a multiple dwelling used as a separate housing unit and having cooking facilities and a private bath.

Applicant - For purposes of this Ordinance a person shall be deemed to be an applicant if they are the owner of the proposed facility; an officer or director of the owner thereof; or an owner of any interest, direct or indirect, in any company, except a publicly traded company, which is the owner of the proposed development.

Aquaculture - Land devoted to the hatching, raising and breeding of fish or other aquatic plants or animals for sale or personal use.

Arcade - A place of business where an individual, association, partnership or corporation maintains four or more amusement devices for public use.

Auction Barn - Any premises used predominantly as a livestock auction facility and may include the auction of agriculturally related items on an incidental or accessory basis only.

Auction Yard - Any premises used predominantly as an auction pavilion or any area dedicated to real estate, personal property, and consignment auctions or similar activities. An auction yard may include structures, open and fenced display areas.

Automobile-Machinery Service Station - Building and premises where motor fuel, oil, grease, batteries, tires, and vehicle accessories may be supplied and dispensed at retail, and where, in addition, customary repair services may be rendered.

Automobile Wrecking Yard - Any premises on which two or more self-propelled vehicles not in running order or operating condition are stored in the open. See also Junkyard and Salvage Yard.

Bar - A building or part thereof where, in consideration of payment therefore, liquor, beer, or wine or any combination thereof are served for consumption on the premises, with or without food.

Basement - A portion of a building with the floor located below the mean grade level. For the purpose of this ordinance, any such basement with more than four (4) feet above grade level shall be counted as a story. No dwelling unit shall be situated in a basement having less than four (4) feet above grade level.

Bed and Breakfast – A dwelling occupied by a family and used incidentally to provide accommodation and meals to guests for remuneration, but shall not include a boarding house, residential care facility, hotel, motel, or other similar uses.

Billboard - See Sign, Off-Site.

Boarding, Lodging or Rooming House - A building other than a hotel, where lodging and meals for six (6) or more persons are served for compensation.

Board of Adjustment - The Freeman City Council shall serve as the Board of Adjustment.

Buildable Area - The portions of a lot remaining after required yards have been provided.

Building - The word "building" includes the word structure and is a structure that is entirely separate from any other structure by space or by walls in which there is no communicating doors or windows or similar openings. A principal building including covered porches and paved patios, is a building in which is conducted the principal use of the lot on which it is situated. In any residential district, any dwelling shall be deemed to be the principal building on the lot on which the same is situated.

Building Line, Front - A line parallel to the street, or right-of-way intersecting the foremost point of the building, excluding uncovered steps.

Building Setback Lines - A line parallel or approximately parallel to the lot lines at a specified distance there from, marking the minimum distance from the lot line that the building may be erected.

Building Site - A lot or parcel, or portion thereof, whether a lot of record or described by metes and bounds, used or intended to be used as the location of a building for housing one or two families.

Building, Alterations of - Any change or rearrangement of the supporting members (such as bearing walls, beams, columns, or girders) of a building, an addition to a building, or movement of a building from one location to another. See Structural Alterations.

Building, Height of - The vertical distance measured from the average grade of the building level of the highest and lowest elevations of the site covered by the building to the top of the roof or parapet of the highest story.

Building, Principal - A building in which is conducted the main use of the lot on which said building is located.

Bus Depot - A building or premises where commercial motor vehicles pick up and discharge fare-paying, passengers. Accessory uses may include ticket offices, luggage checking facilities and similar uses.

Business Sign - A sign which directs attention to a business or profession conducted or to a commodity, service, or entertainment sold or offered upon the premises on which such sign is located or to which it is affixed. See also on-site and off-site signs.

Camper - See Travel Trailer.

Campground - Any premises where two (2) or more camping units are parked or placed for camping purposes, or any premises used or set apart for supplying to the public camping space for two (2) or more camping units for camping purposes, which include any buildings, structures, vehicles or enclosures, uses or intended for use or intended wholly, or in part, for the accommodation of transient campers.

Camping Unit - Any vehicle, tent, trailer or portable shelter used for camping purposes.

Car Wash - An establishment having facilities for washing motor vehicles by production line methods which may include a conveyor system or similar mechanical devices. This definition may also include a self-service operation.

Casino - A room or rooms in which legal gaming is conducted.

Cellar - A portion of a building between two floor levels which is partly or wholly underground and which has more than one-half (½) of its height, from finished floor to finished ceiling or to the underside of the floor joists of the story next above, as the case may be, below the average finished grade level adjacent the exterior walls of the building.

Cemetery - Land that is set apart or used as a place for the interment of the dead or in which human bodies have been buried. "Cemetery" may include a structure for the purpose of the cremation of human remains and may include facilities for storing ashes of human remains that have been cremated or the interment of the dead in sealed crypts or compartments.

Church - A building wherein persons regularly assemble for religious worship, and which is maintained and controlled by a religious body organized to sustain public worship.

Clinic - A building or part of a building used solely for the purpose of consultation, diagnosis and treatment of patients by one or more legally qualified physicians, dentists, optometrists, podiatrists, chiropractors, or drugless practitioners, together with their qualified assistants, and without limiting the generality of the foregoing, the building may include administrative offices, waiting rooms, treatment rooms, laboratories, pharmacies and dispensaries directly associate with the clinic, but shall not include accommodation for in-patient care or operating rooms for major surgery.

Club - A building owned, leased, or hired by a non-profit association of persons the use of which is generally restricted to due-paying members and their guests. Such club may periodically be rented, or leased, to non-members for gathering such as weddings, anniversaries, and dances, but no portion of the building shall continuously be used for business purposes.

Company - For purposes of this ordinance the term, "company" includes, but is not limited to, any corporation, partnership, limited liability company, limited liability partnership, limited partnership, business trust and any other business entity.

Comprehensive Plan - Any legally adopted part or element of the City of Freeman Comprehensive Plan.

Conditional Use - A conditional use is a use that would not be appropriate, generally or without restriction, throughout the zoning district, but which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, convenience, appearance, prosperity or general welfare. Such uses may be permitted in such zoning district as conditional uses, if specific provision for such conditional use is made in this Ordinance.

Congregate Housing - Housing units that provide a semi-independent living environment, which offers residential accommodations, central dining facilities (where at least one (1) meal a day is provided seven (7) days a week), related facilities, and supporting staff and services to persons of at least sixty-two (62) years of age or with disabilities.

Construction Services - A yard, structure, or combination thereof of any general contractor or builder where equipment and materials are stored or where a contractor performs shop or assembly work but does not include any other yard or establishment otherwise defined or classified herein.

Contiguous - Next to, abutting, or touching and having a boundary, or portion thereof, which is adjoining.

Contractor - The person who contracts with an individual or developer to construct a building on a parcel of land prepared by a developer.

Convenience Store - A retail store in which articles for sale are restricted to gasoline sales and a limited range of food items such as milk, bread, soft drinks, ice cream, canned and bottled goods, snacks and candy. Retail sales may also include the limited sale of magazines, books, house wares, toiletries, bait, alcoholic beverages and tobacco.

Court - Any open space, unobstructed from ground to sky, other than a yard, that is on the same lot with and bounded on two or more sides by the walls of a building.

Covenant - An agreement, convention, or promise of two or more parties, by deed in writing, signed and delivered, by which either of the parties pledges himself to the other that something is either done, or shall be done, or shall not be done. The term is currently used primarily with respect to promises in conveyance or other instruments relating to real estate.

Cul-de-sac - A local right-of-way with only one outlet that terminates in a vehicular turnaround and having an appropriate terminal for the safe and convenient reversal of traffic turnaround.

Day Care – The providing of care and supervision of children or adults as a supplement to regular parental or home care, without transfer of legal custody or placement for adoption, with or without compensation, on a regular basis for a part of a day.

Day Care Center - Any type of group day care programs including nurseries for children of working parents, nursery schools for children under minimum age for education in public schools, parent cooperative nursery schools, playgroups for pre-school children, programs covering after-school care for school children provided such establishment is licensed by the State and conducted in accordance with State requirements.

Day Care, Family – The provision of regular care and supervision of no more than twelve (12) children including the provider's own children who are under the age of six (6) years for part of a twenty-four (24) hour period as a supplement to regular parental care.

Day Care, Group Family Home – The provision of regular care and supervision of thirteen (13) to twenty (20) children either in the provider's home or in a facility outside the provider's home for part of a twenty-four (24) hour period as a supplement to regular parental care.

Deck - A structure abutting a dwelling with no roof or walls except for visual partitions and railings that is constructed on piers or a foundation above-grade for use as an outdoor living area.

Detention Pond – A pond, lagoon, or holding basin designed to detain storm water run off to slow inflow to the storm water drainage system.

Developer - The owner of the property being platted or replatted or the person designated by the owner as being responsible for the development of the property. The terms “subdivider” and “developer” are synonymous and used interchangeably, and shall include any person, partnership, firm, association, corporation and/or any officer, agent, employee and trustee thereof who does or participates in the doing of any act toward the subdivision of land within the intent, scope and purview of this Ordinance. The developer shall also be defined as the builder or contractor if they are responsible for the construction of buildings and/or structures or permanent improvements.

Domesticated Large Animals - Any animal that through long association with man, has been bred to a degree which has resulted in genetic changes affecting the temperament, color, conformation or other attributes of the species to an extent that makes it unique and different from wild individuals of its kind. For the purpose of this ordinance the definition shall include, but is not limited to, animals commonly raised on farms and ranches, such as cattle, horses, hogs, sheep, and mules.

Dormitory - A building or part of a building operated by an institution and containing a room or rooms forming one or more habitable units which are used or intended to be used by residents of the institution for living and sleeping, but not for cooking or eating purposes.

Drive-in Restaurant or Refreshment Stand - Any place or premises used for sale, dispensing, or serving of food, refreshments, or beverages in automobiles, including those establishments where customers may serve themselves and may eat or drink the food, refreshments, or beverages on the premises.

Due Diligence - Such a measure of prudence, activity, or assiduity, as is properly to be expected from, and ordinarily exercised by, a reasonable and prudent man under the particular circumstances; not measured by any absolute standard, but depending on the relevant facts of the special case.

Dwelling - A building or portion of a building designed for residential purposes, including one and two family dwellings, but not including hotels, motels or lodging houses.

Dwelling Unit - A room or suite of rooms designed for and occupied by one family and having not more than one kitchen facility.

Dwelling, Efficiency Unit - A dwelling unit having only one room exclusive of bathroom, kitchen, laundry, pantry, foyer, communicating corridor, closets, or any dining alcove. An efficiency unit shall be permitted in a multi-family dwelling.

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

Dwelling, Single Family - A detached residential dwelling unit other than a manufactured home designed for or occupied by one (1) family only.

Dwelling, Two Family - A building containing two dwelling units designed exclusively for occupancy by two families living independently of each other.

Easement - Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of their property. For the purposes of this Ordinance the term shall primarily be used to describe utility access.

Electronic Media Studios – A place where electronic media such as television and radio broadcasts originate or are produced. This definition shall also include recording studios, web based broadcasts, and similar ventures.

Employee(s) - In regard to off right-of-way parking requirements, all who work in the enterprise, including owners.

Exhibition Areas - A building, group of buildings, or place where art, objects, articles, or livestock or agricultural projects are placed on display for the public.

Facility - A building, piece of land or any combination thereof owned and operated by the same owner and dedicated to a specific use or uses. The term shall include those operations where indoor and outdoor activities may be conducted in concert and are integral or compliment the operation as a whole. An example may be an automobile dealership with office spaces, a small indoor display area, separate maintenance facility, and an outdoor display area.

Fairground - An agricultural fairground where farm produce is on display for judging and for sale, and livestock shows, horseracing and other sports events are held and on occasion for auctions, flea markets and concession stands.

Family - Any number of individuals living together as a single housekeeping unit, in which not more than four (4) individuals are unrelated by blood, marriage or adoption. This definition shall not include foster families as regulated by the State.

Feed Store - A building, structure, or area where animal feed and feed supplies are kept for sale at retail, but shall not include a feed mill or agricultural product processing facility as defined herein.

Fence - An artificially constructed barrier of any material or combination of materials erected to enclose, screen, or separate areas.

Financial Institutions - The premises of a bank, trust, finance, mortgage, or investment company.

Fireworks, Sales - A building, structure, or place where fireworks are sold, pursuant to all applicable state statutes.

Flammable or Combustible Liquids, or Hazardous Material - Flammable material is any material that will readily ignite from common sources of heat, or that will ignite at a temperature of 600°F or less. Flammable liquid is any liquid having a flash point below 100°F and having vapor pressure not exceeding forty (40) pounds per square inch (absolute) at 100°F. Combustible liquid is any liquid having a flash point at or above 100°F. Hazardous material includes any flammable solids, corrosive liquids, radioactive materials, oxidizing materials, highly toxic materials, poisonous gases, reactive materials, unstable materials, hyperbolic materials, pyrophoric materials, and any substance or mixture of substances which is an irritant, a strong sensitizer or which generates pressure through exposure to heat, decomposition or other means.

Flea Market - An occasional or periodic sales activity held within a building, structure or open area where groups of individual sellers offer goods, new and used, for sale to the public, not to include private garage sales.

Flood or Flooding - A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of wetlands, lakes, streams, tributaries, or other water bodies; and/or
2. The unusual and rapid accumulation or runoff of surface waters from any source.

Flood Hazard Boundary Map (FHBM) - The official map issued by the Federal Insurance Administration where the areas of special flood hazard have been designated Zone A.

Floodway - 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 an accumulative increase in the water surface.

Food Product Processing Facility - A commercial establishment in which food or food-related products are processed, packaged, or otherwise prepared for human consumption but not consumed on the premises.

Footprint - The land area covered or occupied by a building and a facility as defined herein. The term shall also include any land area dedicated to a use such as outdoor storage or any area utilized for storage, display, or livestock confinement as part of or in support of the building or use.

Gaming Device or Gaming Equipment - Any mechanical contrivance or machine used in connection with gaming or any game.

Gaming or Gambling - The dealing, operating, carrying on, conducting, maintaining, or exposing for pay of any game.

Gaming or Gambling Establishment - Any premises wherein or whereon gaming is done.

Garage or Garage/Private Storage - An accessory building or portion of a building including a carport which is designed or used for the sheltering of private motor vehicles and the storage of household equipment incidental to the residential occupancy and in which there are no facilities for repairing or servicing of such vehicles for remuneration or commercial use.

Garage, Public - A building or portion thereof used for the housing or care of motor vehicles for the general public or where such vehicles are equipped or repaired for remuneration or kept for hire or sale. This may include premises commonly known as “gasoline stations” or “service stations”.

Gasoline Station - Any area of land, includes structures thereon, that is used for the sale of gasoline or other motor vehicle fuel, and oil or other lubrication substances and which may include exchange facilities for 20 pound propane cylinders. It may also include facilities used or designed to be used for polishing, greasing, washing, spraying, dry cleaning, or otherwise cleaning such vehicles.

Golf Course - A public or private area operated for the purpose of playing golf, and includes a par 3 golf course, club house and recreational facilities, driving ranges, and miniature golf courses, and similar uses.

Grain Elevator - Grain storage facilities, which are the principal and primary use of the lot. Said facilities are generally equipped with devices for housing and discharging significant quantities of grain. This definition does not include normal farm product storage and warehousing facilities such as grain bins and where such storage is an accessory use to the parcel.

Grandfather - For the purposes of this ordinance the term “grandfather” shall be defined as a lay term used to describe structures, land uses, facilities, operations or similar activities in existence prior to adoption of the zoning ordinance. The term is generally applied to uses not allowed or further regulated within the new ordinance. The act or condition of grandfathered is more fully addressed in the non-conforming Article herein.

Greenhouse, Commercial - A building for the growing of flowers, plants, shrubs, trees, and similar vegetation which are not necessarily transplanted outdoors on the same lot containing such greenhouse, but are sold directly from such lot at wholesale or retail.

Group Home - See Residential Care Facility.

Home Occupation - A business activity customarily carried on in the home by a member of the occupant's family without structural alterations in the building or any of its rooms, without the installation or outside storage of any machinery, equipment or material other than that customary to normal household operations, without the employment of more than two (2) persons not residing in the home, which does not cause the generation of traffic in excess of that experienced on an average right-of-way of similar design, noise, electrical interference, fumes, odors, etc.

Horticulture - The science or art of cultivating fruits, vegetables, flowers, and plants.

Horticulture Sales - The on-site retail sale of farm produce, floral, fauna, or similar items. The majority of the produce sold shall be seasonal in nature and grown on-site. An exception may be a cooperative venture between numerous producers.

Hospital - An institution devoted primarily to the operation of facilities of the diagnosis, treatment, and cure of disease, illness, injury, or other abnormal physical conditions with provisions for keeping patients overnight.

Hotel - An establishment of transient guests having sleeping rooms without individual cooking facilities for more than six (6) persons for compensation and may or may not provide meals.

Interchange - A grade-separated intersection with one (1) or more direct connections for vehicular travel between the intersecting right-of-ways.

Junkyard - A place where non-recyclable waste, having no economic values, or waste, which is recyclable, but has no chance of being recycled is deposited.

Kennel - Any place where more than four (4) dogs, cats, or other domesticated animals of breeding age are housed, groomed, bred, boarded, trained, harbored, kept, or sold for commercial purposes.

Landing Strip - A strip of ground used or capable of being used for the landing and take-off of aircraft.

Loading Area - A completely off right-of-way, space, or berth on the same lot for the loading or unloading of freight carriers, having adequate ingress and egress to a public right-of-way.

Loading Space, Off Right-of-Way - Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off right-of-way loading space is not to be used as off right-of-way parking space in computation of required off right-of-way parking space.

Locker - A meat processing plant and any other facility where meat, poultry or eggs are cooked, cured, smoked, or otherwise processed or packed, provided that all activities are carried out indoors. This term shall not include a delicatessen, stockyard, slaughterhouse, tannery, a poultry killing establishment, an animal food factory, or an animal by-products plant.

Lot - For purposes of this ordinance, a lot is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public right-of-way, or on an approved private right-of-way, and may consist of a single lot of record; a portion of a lot of record; a combination of complete lots of record, of complete lots of record and portions of lots of record, a parcel of land described by metes and bounds; provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this ordinance.

Lot Coverage - The percent of the area of a lot occupied by buildings, or structures, including accessory building or structures.

Lot Depth - The average horizontal distance between the front and rear lot lines.

Lot Frontage - The portion of the lot nearest the right-of-way; for the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to right-of-ways shall be considered frontage, and yards shall be provided as indicated under "Yards" in this ordinance.

Lot Frontage, Pie Shaped - A lot usually abutting a cul-de-sac. For the purpose of determining frontage, said distance shall be measured perpendicularly to the side lot lines at a point twenty-five (25) feet from the front line.

Lot Line - The legally defined limits of any lot.

Lot, Double Frontage - A lot having frontage on two (2) non-intersecting streets, as distinguished from a corner lot.

Lot Line, Exterior - The side lot line, which abuts the right-of-way on a corner lot.

Lot Line, Rear - The lot line or point of intersection of the side lot lines farthest from and opposite the front lot line.

Lot Line, Side - A lot line other than a front or rear lot line.

Lot of Record - A lot which is part of a subdivision recorded in the office of the County Register of Deeds, or a lot or parcel described by metes and bounds, the description of which has been so recorded. For the purposes of this Ordinance, a legally transacted parcel prior to adoption may be considered as a lot of record.

Lot Width - The mean horizontal distance between the side lot lines of a lot measured at right angles to the depth or the same distance measured at the front building line.

Lot, Corner - A corner lot is defined as a lot located at the intersection of two (2) or more right-of-ways. A lot abutting on a curved right-of-way(s) shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than one hundred thirty-five (135) degrees.

Lot, Interior - An interior lot is defined as a lot other than a corner lot with only one frontage on a right-of-way.

Lot, Through - A lot, other than a corner lot with frontage on more than one (1) street. Through lots abutting two (2) streets may be referred to as double frontage lot.

Lot, Reversed Frontage - A reversed frontage lot is defined as a lot on which the frontage is at right angles or approximately right angles, interior angle less than one hundred thirty-five (135) degrees, to the general pattern in the area. A reversed frontage lot may also be a corner or a through lot.

Machine Shop - A building or structure for the manufacturing or repair of various metal components. Said repairs may include the blacksmithing, welding, cutting, grinding, boring, fabrication, or replacement of metal parts or components.

Major Road Plan - The Transportation Plan in the City of Freeman Comprehensive Plan.

Major Recreational Equipment - Major recreational equipment is defined as including boats and boat trailers, travel trailers, pick-up campers or coaches, designed to be mounted on automotive vehicles, motorized dwellings, tent trailers, and the like, and case or boxes used for transporting recreational equipment, whether occupied by such equipment or not.

Manufactured Home - A moveable or portable dwelling which is eight (8) feet or more in width and thirty-two (32) feet or more in length, constructed on a chassis, and which is designed to be towed, designed for year-round occupancy, primarily to be used without a permanent foundation, but which may sit on a permanent foundation, and designed to be connected to utilities. It may consist of one or more units, separately transportable, but designed to be joined together into one integral unit. Manufactured homes are built according to the Federal Manufactured Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976. Manufactured homes are not mobile homes.

The following shall not be included in this definition:

1. Travel trailers, pickup coaches, motor homes, camping trailers, or other recreational vehicles.
2. Manufactured modular housing which is designed to be set on a permanent foundation, and which uses standard sheathing, roofing, siding, and electrical, plumbing, and heating systems.

Manufactured Home Park - A parcel of land under single ownership, which has been planned and improved for the placement of, manufactured homes for non-transient use.

Manufacturing - The use of land, buildings or structures for the purpose of manufacturing, assembly, making, preparing, inspecting, finishing, treating, altering, repairing, warehousing or storing or adapting for sale of any goods, substance, article, thing or service.

Manufacturing Light - The use of land, buildings or structures for the purpose of manufacturing, assembly, making, preparing, inspecting, finishing, treating, altering, repairing, warehousing or storing or adapting for sale of any goods, substance, article, thing or service. Light manufacturing shall have no more than ten employees.

Massage Establishment - Any premises or part thereof where massages are given, offered or solicited in pursuance of a trade or calling, business or occupation provided that the service is rendered by a person duly trained, licensed and registered under the appropriate statute.

Mobile Home - A transportable, factory-built home, designed to be used as a year-round residential dwelling and built prior to the enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976.

Modular Home - A structure or building module that is manufactured at a location other than the site upon which it is installed and used as a residence; transportable in one or more sections on a temporary chassis or other conveyance device; and to be used as a permanent dwelling when installed and placed upon a permanent foundation system. This term includes the plumbing, heating, air conditioning, and electrical systems contained within the structure.

Motel - A group of attached or detached buildings on the same lot containing sleeping quarters for rental to transients.

Motor Vehicle Track or Play Area - An area of land utilized for the racing or recreational riding of motor vehicles with or without a defined area or track. The term may include a racetrack with spectators and an established racing affiliation or a day use area utilized by a club, group, or independent individuals. A motor vehicle may include cars, trucks, motorcycles, all terrain vehicles or similar items.

Museum - A building or buildings used, or to be used, for the preservation of a collection of paintings and/or other works of art, and/or of objects of natural history, and/or of mechanical, scientific and/or philosophical inventions, instruments, models and/or designs and dedicated or to be dedicated to the recreation of the public, together with any libraries, reading rooms, laboratories and/or other offices and premises used or to be used in connection therewith.

Nonconforming Lot - A lot of record existing on the date of passage of this ordinance which does not have the minimum width or contain the minimum area for the zone in which it is located.

Nonconforming Structure - A lawful structure which exists on the date of passage of this ordinance that could not be built under the terms of this ordinance by reason of restrictions on area, lot coverage, height, yard setbacks, or other characteristics of the structure.

Nonconforming Use - A land use or building or structure or portion thereof lawfully existing at the effective date of this ordinance or at the time of any amendment thereto, which does not conform to the regulations of the zone in which it is located.

Noxious - When used with reference to any use or activity in respect of any land, building or structure or a use or activity which, from its nature or from the manner of carrying on same, creates or is liable to create, by reason or destructive gas or fumes, dust, objectionable odor, noise or vibration or unsightly storage of goods, wares, merchandise, salvage, machinery parts, junk, waste or other material, a condition which may become hazardous or injurious as regards to health or safety or which prejudices the character of the surrounding area or interferes with or may interfere with the normal enjoyment of any use of activity in respect of any land, building or structure.

Nuisance - Any condition existing that is or may become injurious or dangerous to health or that prevents or hinders or may prevent or hinder in any manner the suppression of a disease.

Nursing Home, Rest Home, Convalescent Home - A place which undertakes through its ownership or management to provide maintenance, personal, or nursing care for three or more persons who by reason of illness, physical deformity, or old age are unable to care for themselves.

Obstruction - Any structure or vegetation that blocks the complete vision of people.

Office - A building or part thereof, designed, intended or used for the practice of a profession, the carrying on of a business, the conduct of public administration, or, where not conducted on the site thereof, the administration of an industry, but shall not include a retail commercial use, any industrial use, clinic, financial institution or place of amusement or place of assembly.

Open Sales Area - Any open land or area used or occupied for the purpose of displaying for sale new or secondhand merchandise, including but not limited to, passenger cars or trucks, farm machinery, construction machinery, motor scooters or motorcycles, boats, trailers, aircraft, and monuments.

Outdoor Storage Area - Any open land or area used for the purpose of storage of any product or part of a product either before, during, or after manufacturing, servicing, or repairing and not displayed for retail sale. This does not include open sales areas.

Owner - The record owners of the fee or a vendee in possession, including any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in the land sought to be subdivided.

Ownership Line - A line defining ownership of property under one owner of record.

Parcel - A legally defined piece of property including a platted lot, legally described portion, or similarly described piece of property primarily used as an identifier within taxation.

Park - An area consisting largely of open space, which may include a recreational area, playground, or similar use but shall not include a mobile home park, a campground or trailer park.

Parking Space - An off right-of-way space available for parking of a motor vehicle and which is held to be an area for dimension of which are ten (10) feet by twenty (20) feet or which covers two hundred (200) square feet, exclusive of passageways and driveways appurtenant thereto and giving access thereto. Off right-of-way parking shall be on or adjacent to the property on which the principal use is located.

Parking Space, Off Right-of-Way - For the purposes of this ordinance, an off right-of-way parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a right-of-way and maneuvering room. Required off right-of-way parking areas for three (3) or more automobiles shall have individual spaces marked, and shall be so designed, maintained, and regulated that no parking or maneuvering incidental to parking shall be on any right-of-way, and so that any automobile may be parked and un-parked without moving another.

For purposes of rough computation, an off right-of-way parking space and necessary access and maneuvering may be estimated at three hundred (300) square feet, but off right-of-way parking requirements will be considered to be met only when actual spaces meeting the requirements above are provided and maintained, improved in a manner appropriate to the circumstances of the case, and in accordance with all ordinances and regulations of the County.

Pawnshop - An establishment where money is loaned on the security of personal property pledged in the keeping of the pawnbroker.

Performance Standards - Criterion established for the purposes of:

1. Assigning proposed land uses to proper districts; and
2. Controlling noise, odor, glare, smoke, toxic matter, aesthetics, vibration, fire/explosive hazards generated by, or inherent in, uses of land or buildings.

Permitted Use - A use by right, which is specifically authorized in a particular zoning district.

Person - Any individual or group of individuals, or any corporation, general or limited partnership, joint venture, unincorporated association, or governmental or quasi-governmental entity.

Pet Store - A shop or place where animals or birds for use as pets are sold, kept for sale or groomed, but does not include a shop or place for the breeding or overnight boarding of pets.

Places of Assembly - Places where people gather or congregate for amusement, worship, learning, etc. This includes schools, churches, theaters, playgrounds, etc.

Planning Commission - The Planning Commission of the City of Freeman. The term Planning Commission shall be synonymous with Planning and Zoning Commission and Commission, but shall not include Board of Adjustment or Zoning Board.

Plaza - A public square or similar open area.

Portable Processing Plant - Any equipment for the crushing, screening or washing of sand and gravel aggregate materials, but not including a concrete batching plant or an asphalt plant, which equipment is capable of being readily drawn or readily propelled by a motor vehicle and which equipment is not considered permanently affixed to the site.

Principal Use - The main use of land or structures as distinguished from a secondary or accessory use.

Private Recreation Area - Any open space or recreational area, other than a public park, owned and operated or maintained in whole or in part for profit by a private individual(s), club or fraternal organization for members only, and may include therein one or more of the following activities: swimming, boat facilities, picnic area, tennis courts, outdoor skating rinks, athletic fields, walking, riding and cross-country skiing, snowmobiling, but does not include the racing of animals, motor vehicles, motorcycles or snowmobiles.

Property Line - The division between two parcels of land, or between a parcel of land and the right-of-way.

Public - Promotion of a public cause or service, including utilities having a franchise from Yankton County or other governmental entity, but excluding other for-profit organizations.

Public Building - Any building which is owned, leased, primarily used, and/or primarily occupied by a school district or municipal, county, state, or federal government, or any subdivision or agency of the school district, municipal, county, state, or federal government.

Publicly Traded Company - For purposes of this Ordinance a “publicly traded company” means a company, the shares or other interests in which are regularly traded on the New York Stock Exchange, the American Stock Exchange, NASDAQ or similar recognized security market.

Quarry - A place where consolidated rock has been or is being removed by means of an open excavation to supply material for construction, industrial, or manufacturing purposes, but does not include a wayside quarry or open pit metal mine.

Recreational Equipment - The term recreational equipment shall include boats and boat trailers, jet skis, snowmobiles, travel trailers, pick-up campers or coaches, designed to be mounted on automotive vehicles, motorized dwellings, tent trailers, and the like, and case or boxes used for transporting recreational equipment, whether occupied by such equipment or not.

Recycling Center - A building in which used material is separated and processed prior to shipment to others who will use those materials to manufacture new products.

Remote Fuel Depots - A structure, usually unmanned, that is used for the sale of gasoline, diesel, or other motor vehicle fuel.

Rent-All Shop - A building or part of a building where residential and commercial equipment is kept for rental to the general public and includes such things as lawn and garden tools, floor cleaning equipment, masonry tools, painting and decorating equipment, moving tools, plumbing tools and power tools.

Repair Shop, Auto Body - A general industrial establishment for the repair of damage to a motor vehicle caused by collision, accident, corrosion or age, and, without limiting the generality of the foregoing, includes the reconstruction of motor vehicles, the painting or repainting of motor vehicles and the rebuilding or conversion of automotive engines or engine parts, but does not include a motor vehicle repair shop, an impounding yard, an automobile service station or a gas station.

Repair Shop, Equipment - A service, commercial, or general industrial establishment for the repair or replacement of parts in equipment other than motor vehicles and without limiting the generality of the foregoing, shocks, transmissions, gears, brakes, clutch assemblies, steering assemblies, radiators, heating, cooling, and hydraulic systems, ignition systems, mechanical or electrical parts or systems, engine tuning, lubrication and engine conversion or replacement.

Repair Shop, Motor Vehicle - A service commercial or general industrial establishment for the repair or replacement of parts in a motor vehicle and without limiting the generality of the foregoing, shocks, transmissions, gears, brakes, clutch assemblies, steering assemblies, radiators, heating or cooling systems, ignition systems, mechanical or electrical parts or systems, the installation of undercoating, engine tuning, lubrication and engine conversion or replacement, but does not include an auto body repair shop, an impounding yard, an automobile service station or a gas station.

Residential Care Facility - A family home, group care facility, or similar facility for twenty-four (24) hour non-medical care of persons in need of personal services, supervision or assistance for sustaining the activities of daily living or for the protection of the individual.

Restaurant - A business establishment consisting of a kitchen and dining room, whose primary purpose is to prepare and serve food to be eaten by customers seated in the dining room.

Restaurant, Drive-In - A business establishment consisting of a kitchen, with or without a dining room, where food is prepared and packaged to eat either off the premises or within automobiles parked on the premises.

Restaurant, In-House - A private business establishment consisting of a kitchen, with or without a dining room, whose primary purpose is to prepare and serve food to be eaten by employees of the principal employer. For the purposes of this ordinance, the term "cafeteria" shall be synonymous with "Restaurant, In-House."

Rest Home - See Nursing Homes.

Retail Sales - Where goods, wares, merchandise, substances, articles, or items are offered or kept for sale at retail, including storage of limited quantities of such goods, wares, merchandise, substances, articles, or items sufficient only to service such store.

Retail Store - A building where goods, wares, merchandise, substances, articles or items are offered or kept for sale at retail, including storage of limited quantities of such goods, wares, merchandise, substances, articles or items sufficient only to service such store.

Retaining Wall - A structure constructed to hold back or support an earthen bank.

Right-of-Way - An area of land that is legally described in a registered deed for the provision of public access within which there is usually a road or street. The term right-of-way shall include any defined access route or point including but not limited to public and private accesses, road easements, streets, roads, and drives other than a private drive serving a single owner.

Right-of-Way Line - A dividing line between a lot, tract, or parcel of land and the public right-of-way.

Roadside Stand - A structure having a ground area of not more than three hundred (300) square feet, not permanently fixed to the ground, readily removable in its entirety, not fully enclosed and to be used solely for the sale of farm products produced on the premises, bait, and other approved products.

Row of Trees - Ten (10) or more trees planted in a line, separated by a distance of forty (40) feet or less.

Running Gear - The parts which allow a manufactured home to be mobile including the tires, wheels, axles, running lights, and hitch. This definition shall include all mobility items exclusive of the parts of the chassis that make up the structural integrity of the manufactured home.

Salvage Yard - The use of more than seven hundred fifty (750) square feet of open storage on any lot, portion of lot, or tract of land for the sale, storage, keeping, or for the abandonment, dismantling, or wrecking of automobiles or other vehicles, machines, or parts thereof.

Satellite Dish/Receiver - A device incorporating a reflective surface that is solid, open mesh, or bar configured and is the shape of a shallow dish or cone designed and used for the reception of television signals related back to earth from a terrestrially and/or orbital based communications satellite.

School, Boarding - A school under the sponsorship of a private agency, corporation, or religious entity, having a curriculum generally equivalent to public elementary or secondary schools, accredited by the State of South Dakota and provides room and board for its students; but excluding private trade or commercial schools. "Day Care Centers" as herein defined, shall not be considered schools as applicable to this definition.

School, Denominational or Private - A school under the sponsorship of a private agency, corporation, or religious entity, having a curriculum generally equivalent to public elementary or secondary schools and accredited by the State of South Dakota; but excluding private trade or commercial schools. "Day Care Centers" as herein defined, shall not be considered schools as applicable to this definition.

School, Public - A school under the sponsorship of a public agency providing elementary or secondary curriculum, and accredited by the State of South Dakota; but excluding private trade or commercial schools.

School, Trade or Commercial - An establishment other than an accredited or licensed public, private or denominational school, offering training or instruction in art, occupation or trade.

Screening - A continuous fence, wall, compact evergreen hedge or combination thereof, supplemented with landscape planting, which would effectively screen the property which it encloses, and is broken only by access drives and walks.

Secondhand Shop - The use of land, or building or structure or part thereof where used goods, wares, merchandise, substances, or articles are offered or kept for sale but shall not include a pawnshop.

Security Dwelling Unit - A building or portion thereof designed for occupancy by a security employee.

Self-Storage Warehouse - A building containing separate, individual self-storage units divided from the floor to the ceiling by a wall with an independent entrance from the exterior of the building, designed to be rented or leased on a short-term basis to the general public for private storage of personal goods, materials and equipment.

Services - Establishments, primarily engaged in providing services for individuals, business and government establishments and other organizations, including hotels and other lodging places, establishments providing personal business, repair, and amusement services, health, legal, engineering, and other professional services, educational institutions, membership organizations, and other miscellaneous services.

Service Establishment - Establishments primarily engaged in providing services for individuals, business and government establishments and other organizations, including hotels and other lodging places, establishments providing personal business, repair, and amusement services, health, legal, engineering, and other professional services, educational institutions, membership organizations and other miscellaneous services.

Setback - The minimum horizontal distance from a lot line, to a wall of the building, exclusive of permitted projections. The setback shall be measured at right angles to such lot lines.

Shelterbelt - Five or more rows of trees and/or shrubs that reduce erosion and protects against the effects of wind and storms.

Shelterbelt Restoration - The removal and replacement of two or more rows of trees or of trees totaling one-half acre or more, whichever is greater, in an existing shelterbelt.

Sight Triangle – See “Traffic Visibility Triangle”.

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

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

Sign, Banner - A temporary sign, which has a maximum area of twelve (12) square feet, composed of lightweight material either enclosed or not in a rigid frame, secured or mounted so as to allow movement of the sign caused by movement of the atmosphere (i.e., pennants, twirling signs, balloon, or other gas-filled figures, ribbons, or other similar moving devices) and intended to be displayed for a limited period of time.

Sign, Bulletin Board - An exterior sign, which has a maximum area of thirty-five (35) square feet, used by public, charitable, and religious institutions for the purpose of informing the public about activities of their organization.

Sign, Directional Off-Site - An exterior sign that is generally informational, that has a purpose secondary to the use of the primary use on a property that is not adjacent to the property on which the directional off-site sign exists. Said sign shall include only those signs placed by a political subdivision and shall include those signs standardized by the South Dakota Department of Transportation.

Sign, Directional On-Site - An exterior sign that is generally informational, that has a purpose secondary to the use of the property on which it is located, such as “no parking,” “entrance,” and “loading only.” Said sign shall conform to standards adopted or approved by the regulating public agency.

Sign, Easement and Utility - An exterior sign, which has a maximum area of five (5) square feet, used to identify the location of easements, property lines, utilities, hazards, or otherwise providing notice of restrictions on public access.

Sign, Exterior On-site - An exterior sign relating in subject to the premises upon which it is located, or to products, accommodations, services, or activities on the premises. Exterior on-site signs do not include signs erected by outdoor advertising industry in the conduct of the outdoor advertising business, such as billboards, which are off-site signs.

Sign, Flag - Any fabric or bunting containing distinctive colors, patterns, or symbols, which has a maximum area of twenty (20) square feet and is used as a symbol of government, political subdivision, or other entity.

Sign, Ground and Monument - An exterior sign permanently attached to the ground to identify churches, schools, institutional, and public uses. Said sign may also identify a specific neighborhood by displaying the name of the tract. Ground and monument signs:

1. Are generally constructed of concrete or other masonry material;
2. Shall not exceed twenty (20) feet in height above the mean right-of-way centerline or grade;
3. Shall meet a minimum of one-half (½) of the yard requirements for the district in which it is located; and
4. Shall not exceed one hundred (100) square feet on one (1) side or two hundred (200) square feet on all sides of any one (1) premise.

Sign, Mounted Wall - A sign, which has a maximum area of one hundred (100) square feet, that is attached to or erected against a wall of a building and shall project no more than twelve (12) inches from the wall of the building. Said sign is intended to be read from directly in front of the face of the building.

Sign, Name and Address Plate - A sign, which has a maximum area of two (2) square feet, that is affixed to the side of a building informing the public as to the residents, occupation, and/or address of the building.

Sign, Off-Site - A sign other than an on-site sign. Off-site signs are conventionally know as billboards regardless of size.

Sign, Portable - Any sign, which has a maximum area of twenty (20) square feet, not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted to A or T-frames; menu and sandwich board signs. Signs attached to or painted on vehicles parked and visible from the public right-of-way shall not be included in this definition and shall be prohibited unless said vehicle is used in normal day-to-day operations of the business. Said sign is intended to be displayed for a limited period of time.

Sign, Projecting - Any sign, which has a maximum area of one hundred (100) square feet, that is affixed to a building or wall in such a manner that its face is perpendicular to the face of the building and the sign extends more than twelve (12) inches beyond the surface of such building or wall.

Sign, Real Estate - An exterior sign for the purpose of advertising the sale, rental, lease of real property. Said sign is located on the premises for sale, rental, or lease and shall be of a temporary nature and shall have a maximum area of four (4) square feet except in the Commercial, Highway Commercial, or Industrial Districts where the maximum area shall be thirty-two (32) square feet.

Sign, Roof - Any sign, which has maximum area of three hundred (300) square feet that is erected upon, against, or directly above a roof or on top of the parapet of a building.

Street - A right-of-way established by a recorded plat to provide the primary means of access to abutting property. The term shall also include the term "road" or other similar means of conveyance or access.

Street Line - The right-of-way line of a street.

Street, Arterial - A public street or highway intended to be used primarily for fast or heavy through traffic.

Structure - Anything constructed or erected which requires location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include, but are not limited to, buildings and manufactured homes. This definition does not include semi-portable agricultural structures.

Structural Alterations - Any change in the supporting members of a structure such as bearing walls, columns, beams or girders, foundations and poles. See Building, Alterations of.

Swimming Pool - A water filled enclosure, permanently constructed or portable, having a depth of more than twenty four inches below the level of the surrounding land, or an above ground pool, having a depth of more than thirty inches, designed used and maintained for swimming and bathing.

Tank Farm - A facility having two or more storage containers for the transfer of inorganic liquids or gases and from which wholesale sales of fuel to the public is or may be conducted.

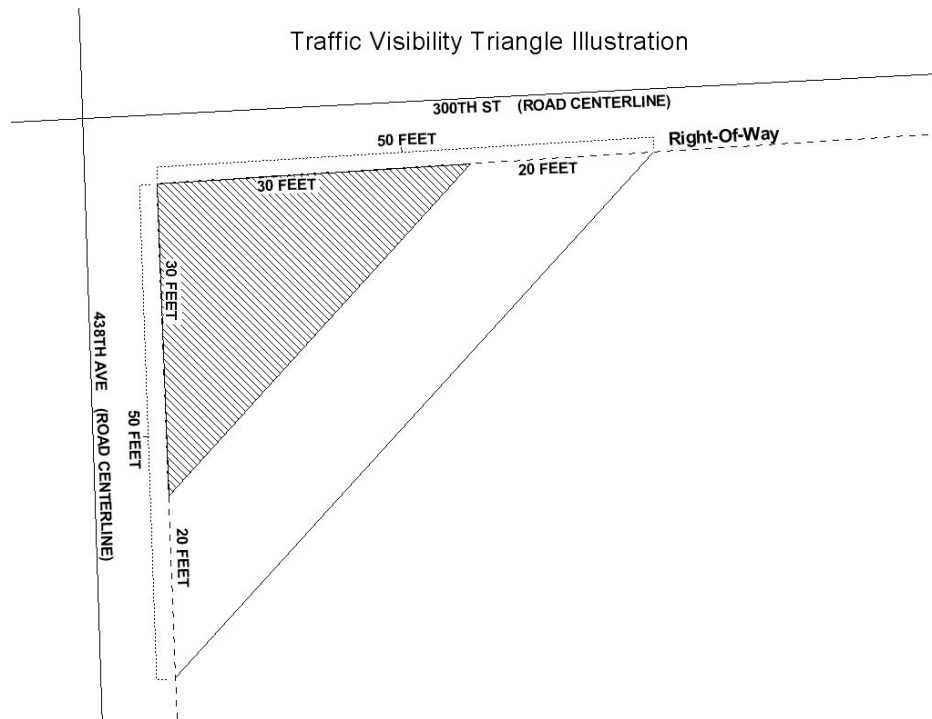
Temporary Construction Facilities -Parcels of land or structures where construction or mining support facilities are constructed or placed at or near a job site to provide materials and support mechanisms for construction or mining projects. The term shall include but is not limited to portable offices, signage, trailers, stationary and mobile equipment, and scales. Common uses include portable concrete, processing, or asphalt plants, job site trailers, and areas for equipment parking, material storage or stockpiling. The term temporary shall be flexible yet is generally tied to a related construction project with defined start-up and completion times.

Terrace - An open uncovered level space at ground level that is either natural or man-made.

Thrift Shop - A shop operated by a charitable organization, which sells, donated used merchandise only. All such merchandise shall be displayed and/or stored in an enclosed building.

Tower - A structure situated on a nonresidential site that is intended for transmitting or receiving television, radio, or telephone communications, including those used exclusively for governmental dispatch communications.

Traffic Visibility Triangle - The triangular space formed by the right-of-way lines of a corner lot and driveways with a line drawn from a point in one right-of-way line to a point in the other right-of-way line, each such point being thirty (30) feet from the point of intersection of the right-of-way lines (measured along the right-of-ways lines). Where the two (2) right-of-way lines do not intersect at a point, the point of intersection of the right-of-way lines shall be deemed to be the intersection of the projection of the right-of-way lines or the intersection of the tangents to the right-of-way lines. In the case of arterial highways intersecting with other arterial highways or railways, the distances establishing the sight triangle shall be increased to fifty (50) feet.



Trailer Park – This definition shall include the following existing trailer courts or parks: Becker Trailer Park described as Parcel #240.12.06.07x Deed 12 Out lots 7x, 7y-2 and 7c.

Travel Trailer - A moveable vehicle with wheels designed or used as living and sleeping quarters or for recreation or business purposes, and such vehicles that have not had the wheels removed. Including campers, recreation vehicles, and trailer coaches.

Truck or Equipment Terminal - A building, structure or place where six (6) or more commercially licensed trucks are rented, leased, kept for hire, stored, or parked for compensation, or from which trucks or transports, stored or parked on the property, are dispatched for hire as common carriers, and which may include warehouse space.

Use - Use shall mean the purpose for which a lot or a building or structure, or any portion thereof, is designed, arranged, intended, occupies, or maintained, and “used” shall have a corresponding meaning.

Utility Facilities - Any above-ground structures or facilities, other than buildings, unless such buildings are used as storage incidental to the operation of such structures or facilities, owned by a governmental entity, a nonprofit organization, a corporation, or any entity defined as a public utility for any purpose and used in connection with the production, generation, transmission, delivery, collection, or storage of water, sewage, electricity, gas, oil, or electronic signals.

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

Veterinary Clinic - A building or part of a building used for the care, diagnosis, and treatment of sick, ailing, infirm, or injured animals, and those who are in need of medical or surgical attention. Such clinics may or may not provide long-term lodging for ill or unwanted animals, or lodging for healthy animals on a fee basis. No outside runs, pens, or facilities shall be permitted.

Veterinary Service - Shall be defined as a veterinary clinic except that outside pens and runs are allowed.

Video Rental Shop - The use of land, building or structure for the purpose of renting video cassette recorders and/or video disc players and/or the rental of video tapes and/or discs.

Vision Clearance - An unoccupied triangular space at the intersection of right-of-ways with other right-of-ways or at the intersection of right-of-ways with railroads. See Traffic Visibility Triangle.

Warehouse - A building or part of a building used for the storage and distribution of goods, wares, merchandise, substances, or articles and may include facilities for a wholesale or retail commercial outlet, but shall not include facilities for a truck or transport terminal or yard.

Wholesale - The sale of commodities to retailers or jobbers and shall include the sale of commodities for the purpose of carrying on any trade or business even if the said trade of business is the consumer or end user of the commodity.

Wind Energy System - A structure or place, such as a wind turbine, designed and constructed to generate power for distribution to off-site users. This definition shall not include private facilities with a single tower or turbine less than seventy-five (75) feet in height and not designed for distribution of power to off-site users.

Windbreak - Any non-opaque manmade structure constructed of any material and erected adjacent to an animal feeding, calving, or other such lot of which its principal use is that of protecting livestock from the effects of the wind.

Yard - An open space at grade, other than a court or plaza, between a structure and the adjacent lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward.

Yard, Front - An open, unoccupied space on a lot facing a right-of-way and extending across the front of the lot between the side lot lines; measured from the road right-of-way to the structure.

Yard, Rear - An open, unoccupied space extending across the rear of a lot from one side lot line to the other side lot line.

Yard, Side - An open, unoccupied space on the same lot with a building situated between the building and sideline of the lot and extending through from the front yard to the required rear yard. Any lot line not the rear line or a front line shall be deemed a sideline.

Zone - An area within which, in accordance with the provisions of this Ordinance, certain uses of lands, buildings, and structures are permitted and certain others are prohibited, where yards and other open spaces are required, where lot areas, building height limits, and other requirements are established, all of the foregoing being identical for the zone and district in which they apply.

Zoning Administrator - An official of the City appointed by the Mayor and confirmed by the City Council, charged with the responsibility of administrating this ordinance.

RESERVED FOR FUTURE USE

ARTICLE 3
ZONING DISTRICTS

Section 301 Zoning Districts Established

The City of Freeman is hereby divided into eight districts:

- R-1 Single - Two Family Residential District
- R-2 Multi-Family Residential District
- B-1 Local Business District
- B-2 General Business District
- I-1 Industrial District
- A-1 Agricultural District
- MHP Manufactured Home Park District
- UT Urban Transitional District

Section 303 Uses Permitted in All Districts

The following uses shall be treated as permitted uses in all zoning districts.

1. Temporary buildings for construction purposes for a period not to exceed the completion date of such construction.
2. Uses which are customarily attendant or incidental to any permitted or conditional use in a particular district, provided that such uses do not endanger or diminish the health, safety, welfare and comfort of the neighborhood, do not generate more traffic and do not constitute public or private nuisances.
3. Accessory uses, including off-street parking and loading as provided by this ordinance.
4. Signs. However, the types of signs permitted in particular district shall be regulated by Article 14 of this ordinance.
5. The Board of Adjustment may permit certain municipal facilities excluded from particular districts in those districts under appropriate conditions.

RESERVED FOR FUTURE USE

ARTICLE 4

SINGLE-TWO FAMILY RESIDENTIAL DISTRICT (R-1)

Section 401 Purpose

The R-1 District is intended to provide a quiet spacious living neighborhood in which residents are protected from hazards such as fires; nuisances such as noise, odors, vibration, congestion, and environmental and esthetic degradation; and uses which are incompatible with the provisions of this ordinance for this district.

Section 403 Permitted Uses

The following uses are permitted in the R-1 District:

1. Day Cares, Family;
2. Dwellings, Single family;
3. Dwellings, Two family;
4. Parks;
5. Public Buildings;
6. Schools, Denominational or Private; and
7. Schools, Public.

Section 405 Accessory Uses

The following uses are allowed as accessory uses in the R-1 District:

1. Accessory buildings and structures;
2. Home occupations;
3. Horticulture;
4. Satellite dishes, less than nine (9) square feet;
5. Sign, Banner;
6. Sign, Directional Off -Site;
7. Sign, Directional On-Site;
8. Sign, Easement and Utility;
9. Sign, Flag;
10. Sign, Ground and Monument;
11. Sign, Name and Address Plate;
12. Sign, Portable;
13. Sign, Real Estate; and
14. Utility facilities.

Section 407 Conditional Uses

The following uses are permitted conditionally in the R-1 District, subject to the provisions of Section 1511:

1. Agriculture;
2. Bed and Breakfasts;
3. Boarding houses;
4. Cemeteries;
5. Churches;
6. Clinics;
7. Congregate housing;
8. Convenience Stores;
9. Day Cares, Group Family Home;
10. Detention Ponds;
11. Funeral homes;
12. Golf courses;
13. Hospitals;
14. Modular homes, pursuant to 1203;
15. Nursing, Rest and Convalescent homes;
16. Places of Assembly;
17. Residential Care Facilities;
18. Schools, boarding; and
19. Swimming pools.
20. Garage/Private Storage

Section 409 Classification of Unlisted Uses

In order to insure that the zoning ordinance will permit all similar uses in each district, the Planning Commission and the Board of Adjustment, upon its own initiative, written application, or upon requests of the Zoning Administrator, shall determine whether a use not specifically listed as a permitted, accessory, or conditional use in a District shall be deemed a permitted, accessory, or conditional use in one or more districts on the basis of similarity to uses specifically listed, pursuant to Section 119.

Section 411 Prohibited Uses and Structures

All uses and structures which are not specifically permitted as principal, accessory, or conditional uses or approved as such within the provisions of Section 409 shall be prohibited.

Section 413 Dimensional Requirements

- | | |
|--|-------------------|
| 1. Minimum lot area: | 7,500 square feet |
| 2. Minimum lot width: | 75 feet |
| 3. Front yard setback: | 25 feet |
| 4. Side yard setback: | 10 feet |
| 5. Rear yard setback for accessory building: | 3 feet |
| 6. Rear yard setback for principal building: | 20 feet |
| 7. Maximum building height: | 35 feet |

RESERVED FOR FUTURE USE

ARTICLE 5

MULTI-FAMILY RESIDENTIAL DISTRICT (R-2)

Section 501 Purpose

The R-2 District is intended to provide a living environment similar in all respects to the R-1 District, although with a higher population density and greater diversity of housing types.

Section 503 Permitted Uses

The following uses are permitted in the R-2 District:

1. Churches;
2. Congregate housing;
3. Day Cares, Family;
4. Day Cares, Group Family Home;
5. Dwellings, Efficiency Units;
6. Dwellings, Multi-family;
7. Dwellings, Single family;
8. Dwellings, Two family;
9. Modular homes, pursuant to Section 1203;
10. Nursing, Rest and Convalescent homes;
11. Parks;
12. Public Buildings;
13. Residential Care Facilities;
14. Schools, Denominational or Private; and
15. Schools, Public.

Section 505 Accessory Uses

The following uses are allowed as accessory uses in the R-2 District:

1. Accessory buildings and structures;
2. Home occupations;
3. Horticulture;
4. Roadside Stands;
5. Satellite Dishes less than nine (9) square feet;
6. Sign, Banner;
7. Sign, Directional Off -Site;

8. Sign, Directional On-Site;
9. Sign, Easement and Utility;
10. Sign, Flag;
11. Sign, Ground and Monument;
12. Sign, Name and Address Plate;
13. Sign, Portable;
14. Sign, Real Estate; and
15. Utility Facilities.

Section 507 Conditional Uses

The following uses are permitted conditionally in the R-2 District, subject to the provisions of Section 1511:

1. Agriculture;
2. Bed and Breakfasts;
3. Boarding houses;
4. Cemeteries;
5. Clinics;
6. Clubs;
7. Convenience Stores;
8. Day Care Centers;
9. Detention Ponds;
10. Funeral homes;
11. Golf courses;
12. Hospitals;
13. Manufactured homes, pursuant to Section 1207;
14. Places of Assembly;
15. Schools, boarding; and
16. Swimming pools.

Section 509 Classification of Unlisted Uses

In order to insure that the zoning ordinance will permit all similar uses in each district, the Board of Adjustment, upon its own initiative, written application, or upon request of the Zoning Administrator, shall determine whether a use not specifically listed as a permitted, accessory, or conditional use in a District shall be deemed a permitted, accessory, or conditional use in one or more districts on the basis of similarity to uses specifically listed, pursuant to Section 119.

Section 511 Prohibited Uses and Structures

All uses and structures which are not specifically permitted as principal, accessory, or conditional uses or approved as such within the provisions of Section 509, shall be prohibited.

Section 513 Dimensional Requirements

- | | |
|--|-------------------|
| 1. Minimum lot area: | 7,500 square feet |
| 2. Minimum lot area per dwelling unit: | 2,500 square feet |
| 3. Minimum lot width: | 75 feet |
| 4. Front yard setback: | 25 feet |
| 5. Side yard setback: | 10 feet |
| 6. Rear yard setback for accessory building: | 3 feet |
| 7. Rear yard setback: | 20 feet |
| 8. Maximum building height: | 40 feet |
| 9. Off-street parking as per Article 13 | |

RESERVED FOR FUTURE USE

ARTICLE 6

LOCAL BUSINESS DISTRICT (B-1)

Section 601 Purpose

The B-1 District is established to maintain certain elements of the traditional purpose and appearance of the downtown area by permitting higher densities and limited on-street parking near the established commercial core of the city.

Section 603 Permitted Uses

The following uses are permitted in the B-1 District:

1. Arcades;
2. Bars;
3. Bed and Breakfasts;
4. Boarding Houses;
5. Bus depots;
6. Churches
7. Clinics;
8. Clubs;
9. Convenience Stores;
10. Electronic Media Studios;
11. Feed Stores;
12. Financial institutions;
13. Food Processing Facilities;
14. Garages, Public;
15. Horticulture Sales;
16. Massage Establishments;
17. Offices;
18. Parks;
19. Parking spaces;
20. Pet Stores;
21. Public Buildings;
22. Restaurants;
23. Restaurants, Drive-in;
24. Restaurants, In-house;
25. Retail stores;

26. Service establishments; and
27. Video rental stores.

Section 605 Accessory Uses

The following uses are allowed as accessory uses in the B-1 District:

1. Accessory buildings and structures;
2. Fireworks Sales;
3. Horticulture;
4. Roadside Stands;
5. Satellite Dishes less than nine (9) square feet;
6. Sign, Banner;
7. Sign, Bulletin Board;
8. Sign, Directional Off -Site;
9. Sign, Directional On-Site;
10. Sign, Easement and Utility;
11. Sign, Exterior On-Site;
12. Sign, Flag;
13. Sign, Ground and Monument;
14. Sign, Mounted Wall;
15. Sign, Name and Address Plate;
16. Sign, Portable;
17. Sign, Projecting;
18. Sign, Real Estate;
19. Sign, Roof; and
20. Utility Facilities.

Section 607 Conditional Uses

The following uses are permitted conditionally in the B-1 District, subject to the provisions of Section 1511:

1. Adult Entertainment Businesses;
2. Agriculture;
3. Apartments, second story or above;
4. Automobile-Machinery Service Stations;
5. Bars;
6. Bowling alleys;

7. Car Washes;
8. Casinos;
9. Cemeteries;
10. Congregate Housing;
11. Convenience stores;
12. Day Care Centers;
13. Detention Ponds;
14. Dwellings, Single family;
15. Flea Markets;
16. Gasoline stations;
17. Hospitals;
18. Lockers;
19. Machine Shops;
20. Manufacturing, Light;
21. Museums;
22. Nursing, Rest and Convalescent homes;
23. Open Sales Areas;
24. Pawn Shops;
25. Places of Assembly;
26. Rent-all shops;
27. Repair Shop, Equipment;
28. Repair shop, Motor vehicle;
29. Residential Care Facilities;
30. Restaurants, drive-in;
31. Schools, Boarding;
32. Schools, Trade or Commercial;
33. Secondhand shops;
34. Self-storage warehouses;
35. Theaters, auditoriums, and community centers;
36. Thrift shops;
37. Towers;
38. Veterinary clinics;
39. Wholesale establishments; and
40. Warehouses.

Section 609 Classification of Unlisted Uses

In order to insure that the zoning ordinance will permit all similar uses in each district, the Board of Adjustment, upon its own initiative, written application, or upon request of the Zoning Administrator, shall determine whether a use not specifically listed as a permitted, accessory, or conditional use in a District shall be deemed a permitted, accessory, or conditional use in one or more districts on the basis of similarity to uses specifically listed, pursuant to Section 119.

Section 611 Prohibited Uses and Structures

All uses and structures which are not specifically permitted as principal, accessory, or conditional uses or approved as such within the provisions of Section 609 shall be prohibited.

Section 613 Dimensional Requirements

1. Minimum lot area: 2,500 square feet
2. Minimum lot width: 25 feet
3. Setbacks: none required
4. Parking and loading: Exempt

Section 615 Screening

All outdoor storage facilities and parking lots adjacent to a residential district shall be screened as defined herein.

ARTICLE 7

GENERAL COMMERCIAL DISTRICT (B-2)

Section 701 Purpose

The B-2 is intended to provide locations for business activities that serve persons in automobiles and are typically grouped along a major street or at major street or highway intersections. Regulations are designed to guide future change to minimize the formation of commercial slums, to preserve the carrying capacity of streets, and to encourage provision of adequate off-street parking and loading space. It is not the intent of this district to encourage the extension or enlargement of existing strip commercial areas.

Section 703 Permitted Principal Uses

The following uses and structures are permitted in the B-2 District:

1. Bars;
2. Bus depots;
3. Car washes;
4. Clinics;
5. Construction Services;
6. Convenience stores;
7. Electronic Media Studios;
8. Feed Stores;
9. Financial institutions;
10. Food Processing Facilities;
11. Garages, Public;
12. Gasoline Stations;
13. Horticulture Sales;
14. Lumberyards;
15. Machine Shops;
16. Manufacturing, Light;
17. Offices;
18. Open Sales Areas;
19. Parking spaces;
20. Pet Stores;
21. Public Buildings;
22. Rent-all shops;
23. Repair shop, Auto body;
24. Repair shop, Equipment;

25. Repair shop, Motor vehicle;
26. Restaurants;
27. Restaurants, Drive-in;
28. Restaurants, In-house;
29. Retail stores;
28. Secondhand shops;
29. Self-storage warehouses;
30. Service establishments;
31. Thrift shops;
32. Veterinarian clinics;
33. Video rental store; and
34. Warehouses.

Section 705 Accessory Uses

The following uses are allowed as accessory uses in the B-2 District.

1. Accessory buildings and structures;
2. Fireworks Sales;
3. Horticulture;
4. Roadside Stands;
5. Satellite Dishes, less than nine (9) square feet;
6. Sign, Banner;
7. Sign, Bulletin Board;
8. Sign, Directional Off -Site;
9. Sign, Directional On-Site;
10. Sign, Easement and Utility;
11. Sign, Exterior On-Site;
12. Sign, Flag;
13. Sign, Ground and Monument;
14. Sign, Mounted Wall;
15. Sign, Name and Address Plate;
16. Sign, Portable;
17. Sign, Real Estate; and
18. Utility Facilities.

Section 707 Conditional Uses

The following uses are permitted conditionally in the B-2 District subject to provisions of Section 1511:

1. Adult Entertainments Businesses;
2. Agriculture;
3. Agricultural Product Processing Facilities;
4. Amusement Parks;
5. Campgrounds;
6. Car Washes;
7. Casinos;
8. Concrete Plants;
9. Detention Ponds;
10. Dwellings, Single family;
11. Flea Markets;
12. Lockers;
13. Manufacturing;
14. Off-site signs;
15. Pawn Shops;
16. Sign, Projecting;
17. Sign, Roof;
18. Towers;
19. Veterinary Services; and
20. Wholesale establishments.

Section 709 Classification of Unlisted Uses

In order to insure that the zoning ordinance will permit all similar uses in each district, the Board of Adjustment, upon its own initiative, written application, or upon request of the Zoning Administrator, shall determine whether a use not specifically listed as a permitted, accessory, or conditional use in a District shall be deemed a permitted, accessory, or conditional use in one or more districts on the basis of similarity to uses specifically listed, pursuant to Section 119.

Section 711 Prohibited Uses and Structures

All uses and structures which are not specifically permitted as principal, accessory, or conditional uses or approved as such within the provisions of Section 709 shall be prohibited.

Section 713 Dimensional Requirements

- | | |
|---|--------------------|
| 1. Minimum lot area: | 10,000 square feet |
| 2. Minimum lot width: | 100 feet |
| 3. Front yard setback: | 30 feet |
| 4. Side yard setback for principal building: | 10 feet |
| 5. Rear yard setback: | 20 feet |
| 6. Maximum building height: | 40 feet |
| 7. Side/rear setback for accessory building: | 10 feet |
| 8. Parking and loading requirements as per Article 13 | |

Section 715 Screening

All outdoor storage facilities and parking lots shall be screened by a site obscuring fence or vegetation when the areas are adjacent to a residential district.

ARTICLE 8

INDUSTRIAL DISTRICT (I-1)

Section 801 Purpose

The Industrial District provides a place for all industrial activities, as well as wholesale and research establishments, where interference between industrial activities on the one hand and commercial and residential activities on the other is minimized. Any industrial use may be permitted, except one which would endanger the health or safety of residents or would create a public or private nuisance by generating excessive noise, smoke, traffic, air and water pollution.

Section 803 Permitted Uses

The following uses are permitted in the I-1 District:

1. Agriculture;
2. Agricultural product processing facilities;
3. Auction Barns;
4. Auction Yards;
5. Car Washes;
6. Concrete Plants;
7. Construction Services;
8. Electronic Media Studios;
9. Feed Stores;
10. Food Processing Facilities;
11. Garages, Public;
12. Gasoline Stations;
13. Grain elevators;
14. Horticulture Sales;
15. Livestock buying stations;
16. Lumberyards;
17. Machine Shops;
18. Manufacturing;
19. Manufacturing, Light;
20. Open Sales Areas;
21. Pet Stores;
22. Public Buildings;
23. Repair shop, Auto body;
24. Repair shop, Equipment;

25. Repair shop, Motor vehicle;
26. Rent-all shops;
27. Sale and outside storage of stone, sand, scrap, and waste materials;
28. Self-storage warehouses;
29. Tank farms;
30. Veterinarian services;
31. Warehouses; and
32. Wholesale establishments.

Section 805 Accessory Uses

The following uses are allowed as accessory uses in the I-1 District.

1. Accessory buildings and structures;
2. Fireworks Sales;
3. Horticulture;
4. Roadside Stands;
5. Satellite Dishes, less than nine (9) square feet;
6. Sign, Banner;
7. Sign, Bulletin Board;
8. Sign, Directional Off -Site;
9. Sign, Directional On-Site;
10. Sign, Easement and Utility;
11. Sign, Exterior On-Site;
12. Sign, Flag;
13. Sign, Ground and Monument;
14. Sign, Mounted Wall;
15. Sign, Name and Address Plate;
16. Sign, Portable;
17. Sign, Real Estate; and
18. Utility Facilities.

Section 807 Conditional Uses

The following uses are permitted conditionally in the I-1 District, subject to the provisions of Section 1511:

1. Adult Entertainment Businesses;
2. Agriculture;
3. Airports;
4. Amusement Parks;
5. Bars;
6. Car Washes;
7. Detention Ponds;
8. Junk yards;
9. Lockers;
10. Off-site signs;
11. Quarries;
12. Salvage yards;
13. Sign, Projecting;
14. Sign, Roof; and
15. Towers.

Section 809 Classification of Unlisted Uses

In order to insure that the zoning ordinance will permit all similar uses in each district, the Board of Adjustment, upon its own initiative, written application, or upon request of the Zoning Administrator, shall determine whether a use not specifically listed as a permitted, accessory, or conditional use in a District shall be deemed a permitted, accessory, or conditional use in one or more districts on the basis of similarity to uses specifically listed, pursuant to Section 119.

Section 811 Prohibited Uses and Structures

All uses and structures which are not specifically permitted as principal, accessory, or conditional uses or approved as such within the provisions of Section 809 shall be prohibited.

Section 813 Dimensional Requirements

- | | |
|---|--------------------|
| 1. Minimum lot area: | 10,000 square feet |
| 2. Minimum lot width: | 100 feet |
| 3. Front yard setback: | 30 feet |
| 4. Side yard setback for principal building: | 20 feet |
| 5. Side/rear yard setback for accessory building: | 10 feet |
| 6. Rear yard setback: | 20 feet |
| 7. Maximum building height: | 40 feet |
| 8. Parking and loading requirements as per Article 13 | |

Section 815 Screening

All outdoor storage areas and parking lots shall be screened by a site obscuring fence or vegetation when the areas are adjacent to a residential district.

ARTICLE 9

AGRICULTURAL DISTRICT (A-1)

Section 901 Purpose

The A-1 District is established to preserve agricultural use and to land suited to eventual development in other uses pending proper timing for practical and economical provision of utilities, major streets, schools, and other facilities so that reasonably compact development will occur and the fiscal integrity of the area preserved.

Section 903 Permitted Uses

The following uses are permitted in the A-1 District:

1. Agriculture;
2. Dwellings, Single Family;
3. Farm buildings;
4. Greenhouses and/or Nurseries; and
5. Horticulture.

Section 905 Accessory Uses

The following uses are allowed as accessory uses in the A-1 District:

1. Accessory buildings and structures;
2. Fireworks Sales;
3. Home/Farm occupations;
4. Horticulture;
5. Roadside stands;
6. Roadside Stands;
7. Satellite Dishes, less than nine (9) square feet;
8. Sign, Banner;
9. Sign, Bulletin Board;
10. Sign, Directional Off -Site;
11. Sign, Directional On-Site;
12. Sign, Easement and Utility;
13. Sign, Exterior On-Site;
14. Sign, Flag;
15. Sign, Ground and Monument;
16. Sign, Mounted Wall;

17. Sign, Name and Address Plate;
18. Sign, Portable;
19. Sign, Real Estate; and
20. Utility Facilities.

Section 907 Conditional Uses

The following uses are permitted conditionally in the A-1 District, subject to the provisions of Section 1511:

1. Airports;
2. Auction Barns;
3. Auction Yards;
4. Campgrounds;
5. Car Washes;
6. Detention Ponds;
7. Junk yards;
8. Livestock buying stations;
9. Off-site signs;
10. Parks;
11. Private recreation areas;
12. Quarries;
13. Salvage yards;
14. Sign, Projecting;
15. Sign, Roof; and
16. Towers.

Section 909 Classification of Unlisted Uses

In order to insure that the zoning ordinance will permit all similar uses in each district, the Board of Adjustment, upon its own initiative, written application, or upon request of the Zoning Administrator, shall determine whether a use not specifically listed as a permitted, accessory, or conditional use in a District shall be deemed a permitted, accessory, or conditional use in one or more districts on the basis of similarity to uses specifically listed, pursuant to Section 119.

Section 911 Prohibited Uses and Structures

All uses and structures which are not specifically permitted as principal, accessory, or conditional uses or approved as such within the provisions of Section 909 shall be prohibited.

Section 913 Dimensional Requirements

- | | |
|---|----------|
| 1. Minimum lot area: | 5 acres |
| 2. Minimum lot width: | 300 feet |
| 3. Front yard setback: | 30 feet |
| 4. Side yard setback for principal building: | 25 feet |
| 5. Side/rear yard setback for accessory building: | 10 feet |
| 6. Rear yard setback: | 25 feet |

RESERVED FOR FUTURE USE

ARTICLE 10

MANUFACTURED HOME PARK DISTRICT (MHP)

Section 1001 Purpose

The intent of the Manufactured Home Park District is to:

1. Provide regulations and standards for the development of a safe, healthy and planned community for permanent manufactured home living;
2. Provide, in appropriately located areas, sites for manufactured home living developed at reasonable density consistent with sound standards of public health and safety;
3. Comply as much as possible with the objectives and purposes of adjoining zoning districts to which manufactured home parks are located;
4. Ensure adequate light, air, access, and open space for each manufactured living unit; and
5. Regulate the Manufactured Home Park such that it will complement the land use policy of adjoining zoning districts.

Section 1003 Design and Performance Standards

1. There shall be a maximum of six (6) manufactured homes per gross acre.
2. There shall be a minimum of 5,000 square feet of site area per manufactured home. In no case may a manufactured home occupy more than twenty-five (25) percent of any lot.
3. A Manufactured Home Park shall provide outdoor community use facilities and recreation open spaces of which not less than 5,000 square feet in area for each ten (10) acres or portion thereof shall be developed for use by children. The aggregate community use facilities and open spaces shall not be less than two hundred (200) square feet for each manufactured home space.
4. No manufactured home or dwelling unit shall be located in a required front yard or less than twenty-five (25) feet from the property line of the manufactured home park boundary.
5. Individual manufactured homes sites within the Manufactured Home Park shall be designated and staked or marked so as to be readily identified. Only one manufactured home may be located on a manufactured home site as designated and subject to the following limitations:
 - A. Front yard and rear yard shall be a minimum of ten (10) feet;
 - B. Side yard shall be a minimum of five (5) feet;
 - C. Minimum distance of twenty (20) feet between manufactured homes and/or other principal permitted structures; and
 - D. The only accessory structure permitted on individual manufactured home sites shall be a temporary sun or wind shelter, and/or a storage building with a maximum size of ten (10) feet by ten (10) feet, and garages for the storage of motor vehicles.

6. All streets for automobile circulation shall be:
 - A. 2-way street, parking on both sides: 32 feet
 - B. 2-way street, parking on one side: 25 feet
 - C. 2 Way street, no parking: 18 feet
 - D. 1-way street, no parking: 14 feet
7. A minimum of two improved parking spaces shall be provided for each manufactured home, one of which shall be on the manufactured home site.
8. Fencing and landscaping:
 - A. Adequate landscaping shall be provided including trees and shrubs around the perimeter of the Manufactured Home Park; and
 - B. Additional fencing and landscaping including perimeter fencing along interior, side and rear lot lines may be recommended by the Planning Commission and required by the Board of Adjustment as part of the Rezoning process for the Manufactured Home Park.
9. Manufactured homes can be of single or multiple sections.
10. Provided with skirting of material, which is not highly combustible and installed around the perimeter of the home from the bottom of the manufactured home to the ground.
11. Anchored to the ground to resist tipping and lateral movement in the manner contemplated by the manufactured design.
12. The manufactured home shall meet or exceed the federal HUD Manufactured Home Construction and Safety Standards.

ARTICLE 11

URBAN TRANSITIONAL DISTRICT (UT)

Section 1101 Purpose

The purpose of the Urban Transitional District is intended to prevent premature development at urban densities on otherwise suitable land which is not served by streets, utilities, and community facilities.

Section 1103 Establishment of an Urban Transitional District

An urban transitional district may be established subject to the following conditions:

1. All users located in the district utilizing septic systems for sewage disposal must meet all applicable city, county, state and other regulations governing placement of such systems.
2. Structures and uses proposed in the development may include only those structures and uses by the district in which the development is located.
3. Such development must follow procedures in Section 9.5.
4. Minimum lot area, yard, height, and accessory uses shall be determined by the requirements and procedure set out below, which shall prevail over conflicting requirements of this ordinance or the City of Freeman Subdivision Ordinance.
5. The Board of Adjustment shall review the conformity of the proposed development with the comprehensive plan and accepted principles of land use planning and neighboring properties.
6. The Board of Adjustment may modify the layout, circulation, and performance of the proposed development and other requirements deemed appropriate by the Board.
7. The number of dwelling units permitted shall be determined by dividing the net development area by the minimum lot area per family required by the district in which the area is located. Net development areas shall be determined by subtracting the area set aside for churches, schools, or other nonresidential uses from the gross development area and deducting twenty (20) percent of the remainder for streets, regardless of the amount of land actually required for streets. The area of land set aside for common open space or recreation use shall be included in determining the number of dwelling units permitted.

Section 1105 Permitted Uses

The following uses are permitted in the UT District:

1. Agriculture;
2. Horticulture; and
3. Parks and recreational areas when publicly owned.

Section 1107 Accessory Uses

Accessory uses maybe allowed upon approval of such use in conjunction with an approved conditional uses. Any such use should be subject to conditions prescribed by the Board of Adjustment.

Section 1109 Conditional Uses

The following uses are permitted conditionally in the Urban Transitional District, subject to provisions of Section 1511:

1. Single Family Dwellings;
2. Two Family Dwellings;
3. Multi-Family Dwellings;
4. Utility Facilities; and
5. Public buildings.

Section 1111 Classification of Unlisted Uses

In order to insure that the zoning ordinance will permit all similar uses in each district, the Board of Adjustment, upon its own initiative or upon written application, shall determine whether a use not specifically listed as a permitted, accessory, or conditional use in a District shall be deemed a permitted, accessory, or conditional use in one or more districts on the basis of similarity to uses specifically listed, pursuant to Section 119.

Section 1113 Prohibited Uses and Structures

All uses and structures which are not specifically permitted as principal, accessory, or conditional uses or approved as such within the provisions of Section 1109 shall be prohibited.

Section 1115 Dimensional Requirements

Dimensional requirements shall comply with the requirements for development of the proposed district such as an R-1 or R-2. All development and platting activities shall be approved by the Zoning Administrator.

ARTICLE 12

SUPPLEMENTARY REGULATIONS

Section 1201 Accessory Buildings

No accessory building shall be erected in any required yard area and no separate accessory building shall be erected within five (5) feet of any other building.

Section 1203 Modular Home Performance Standards

Modular homes, as defined herein, sited within a Residential District shall comply with the following conditions.

1. The pitch of the main roof shall be not less than one foot of rise for each four feet of horizontal run;
2. The roof shall be shingled with conventional roofing products; metallic surfaces shall not be permitted, alternative materials, including metal may be approved by the Zoning Administrator;
3. The exterior walls shall be encased with conventional house siding; flat or corrugated sheet metal is prohibited;
4. A wood or masonry foundation with frost footings shall form a complete enclosure under the exterior walls;
5. Prior to placement of home on the foundation, the foundation must be inspected and approved by the City Zoning Administrator;
6. The minimum width of the main body of the home as assembled on the site shall not be less than twenty four (24) feet, as measured across the narrowest portion;
7. The modular home shall have the long axis of the home parallel to the street, an alternative design may be approved by the Zoning Administrator; and
8. The modular home shall meet or exceed the International Residential Code or other recognized Code for building quality.

Section 1205 Manufactured Homes

No manufactured homes shall be parked and occupied in any district for more than forty-eight (48) hours, except upon a special permit issued by the Zoning Administrator. Such permit shall be issued for a period not to exceed thirty (30) days and shall not be renewable within the same calendar year.

Provided, however, a permit may be issued for parking and occupying a mobile home on land owned by the occupant or occupants, during the construction of a house thereon or for a period not exceeding one hundred eighty (180) days and which shall be renewable for an additional period not exceeding one hundred eighty (180) days. However, if material progress with house construction is not made within forty-five (45) days from the issuance of a permit, or if construction work ceases for a consecutive period of forty-five (45) days, said permit shall become void.

Section 1207 Manufactured Home Performance Standards

Manufactured homes sited within a Residential District shall comply with the following conditions. This provision shall not apply to those homes described in Section 1209:

1. The pitch of the main roof shall be not less than one foot of rise for each four feet of horizontal run;
2. The roof shall be shingled with conventional roofing products; metallic surfaces shall not be permitted, alternative materials, including metal may be approved by the Zoning Administrator;
3. The exterior walls shall be encased with conventional house siding; flat or corrugated sheet metal is prohibited;
9. A wood or masonry foundation shall form a complete enclosure under the exterior walls;
10. The minimum width of the main body of the manufactured home as assembled on the site shall not be less than twenty (20) feet, as measured across the narrowest portion;
11. The manufactured home shall have the long axis of the home parallel to the street;
12. The running gear and hitch shall be removed;
13. Anchored to the ground to resist tipping and lateral movement in the manner contemplated by the manufactured design;
14. The manufactured home shall meet or exceed the federal HUD Manufactured Home Construction and Safety Standards; and
15. Prior to placement of home on the foundation, the foundation must be inspected and approved by the City Zoning Administrator.

Section 1209 Manufactured Home Performance Standards for the Becker Trailer Park

This section shall apply to the Becker Trailer Park described as Parcel #240.12.06.07x Deed 12 Out lots 7x, 7y-2 and 7c.

1. Manufactured homes may be of single or multiple sections;
2. Provided with skirting material, which is not highly combustible and installed around the perimeter of the home from the bottom of the manufactured home to the ground;
3. The running gear and hitch shall be removed;
4. Anchored to the ground to resist tipping and lateral movement in the manner contemplated by the manufactured design; and
5. The manufactured home shall meet or exceed the federal HUD Manufactured Home Construction and Safety Standards.

Section 1211 Accessory Building(s)

Accessory building(s) shall not occupy more than thirty (30) percent of the area of the rear yard.

Section 1213 Obstructions

Every part of the required area of a yard shall be open to the sky unobstructed, except for accessory buildings and the ordinary projections of sills, cornices, and ornamental features. In addition, the following obstructions are also permitted:

1. Open fire escapes, projecting no more than five (5) feet into a required yard;
2. Terraces;
3. Awnings and canopies;
4. Steps and/or ramps four (4) feet or less above grade necessary for access to a permitted building or a lot from a street or alley;
5. Chimneys, projecting eighteen (18) inches or less into a required yard;
6. Play equipment;
7. Clotheslines;
8. Arbors, trellises, landscaping, and trees;
9. Flag poles;
10. Television and/or radio tower provided the base unit is within thirty (30) inches of the eaves of the principal structure and the entire tower does not project more than eight (8) feet into any required side or rear yard. In no case may a tower project into the required front yard;
11. Fences, walls, and screening are allowed in all yards provided they meet the following height limitations and construction standards unless otherwise stated:
 - A. Fence construction standards:
 1. All posts and bracing shall face towards the owner; and
 2. Shall be constructed on the owner's property and a minimum of one (1) foot from the property line.
 - B. Residential District - front yards:
 1. Shall not exceed four (4) feet; and
 2. Shall not exceed two and one-half (2.5) feet within the herein-defined "Traffic Visibility Triangle" on corner lots.
 - C. Residential District - side and rear yards shall not exceed six (6) feet; and
 - D. Commercial and Industrial - all fencing, walls and screening shall not exceed ten (10) feet.

12. Overhanging eaves and gutters projecting into the yard for a distance not exceeding forty (40) percent of the required yard width or three (3) feet.

Section 1215 Traffic Visibility Triangle

No obstructions, between the heights of two and one-half (2-1/2) and ten (10) feet above the average curb grades, or the street or highway grades at the centerline shall be established or placed in the area defined herein as the "Traffic Visibility Triangle".

Section 1217 Nonconforming Buildings, Structures and Uses

1. General Provisions - Any lawful building, structure or use existing on the ninth day of August, 1999, may be continued, even though it does not conform to the provisions of this ordinance for the district in which it is located. Likewise whenever a district is changed thereafter, the lawful buildings, structures, and uses existing on the effective date of the change may be continued.
2. Special Conditions - Structural repairs and alterations of non-conforming buildings, structures, and their premises shall not exceed fifty (50) percent of their equalized value on the date they became nonconforming. Normal maintenance of a structure containing a non-conforming use is permitted, including necessary nonstructural repairs and incidental alterations, provided such repairs and alterations do not extend or intensify the non-conforming use. Notwithstanding the foregoing, an accessory building situated within an R-1 or R-2 District, may be repaired or replaced in excess of the foregoing limits, if all of the following conditions are met:
 - A. If the accessory building is a non-conforming use only because there is no principal building or use which qualifies as a permitted use for the zoning district;
 - B. The owners agree that any subsequent construction of any principal building for a permitted use will be in such a manner so that the accessory building intended to be repaired or replaced conforms with Section 203 in the definition of an "accessory building or structure" after the completion of construction of the principal building;
 - C. The repaired or replaced accessory building will not exceed more than 200% of the size of the accessory building being repaired or replaced; and
 - D. The accessory building will conform to all other requirements of the zoning ordinance, except for the absence of the principal building and its permitted use.
3. Discontinuance - A non-conforming use shall be permanently discontinued when:
 - A. It is discontinued for twelve (12) consecutive months or where there is clear evidence that the owner has abandoned the use. This provision applies to both residential and nonresidential uses.
 - B. The structure containing the use is destroyed by any means to the extent of fifty (50) percent of its current assessed value. In such a case, the structure shall be reconstructed as a conforming use. Restoration or repair of a less damaged structure must commence within ninety (90) days from the date of damage and be completed within one (1) year, or said use shall be discontinued.

Section 1219 Multiple Lot Ownership

The Zoning Administrator shall have the right to waive set-back regulations and variance requirements in cases of common multiple lot ownership. In those instances of multiple lot ownership where buildings, structures, and similar uses are sited on multiple lots and said lots are utilized as a single large lot, under common ownership, the set back requirements shall only apply to the exterior or outside perimeter lot lines as defined herein.

Section 1221 Unique Lot Requirements

1. Through Lots – In the case of through lots, the front yard set back on both sides of the block will be the prescribed front yard set back for the district in which the property is located. The Zoning Administrator may waive the requirements for the prescribed front yard and substitute a special yard requirement, which shall not be less than the average of the yards on adjacent lots within the same zoning district.
2. Corner Lots – In the case of corner lots, the front yard set back shall be the prescribed front yard set back for the district in which the property is located for all sides of the lot or yards fronting a street. The applicant may select the primary front yard and other yards unless the City requires an arrangement in order to protect the public health, safety, and welfare.

Section 1223 Foundation Heights and Grades

No foundation shall be constructed, reconstructed, or installed which may cause excessive drainage upon neighboring properties. No lot shall be graded, regarded, or filled in a manner which would do the same. Prior to constructing, reconstructing a foundation or grading a lot a building permit detailing the proposed height in relation to clearly identifiable benchmarks shall be submitted to the City for approval. The City reserves the right to reject any application where a negative impact may be experienced by the proposed activity.

RESERVED FOR FUTURE USE

ARTICLE 13

PARKING AND LOADING

Section 1301 Intent

The intent of this section is to promote public safety and welfare by reducing the congestion of public streets. Off-street parking and loading space shall be provided on individual lots in a quantity related to the use of the property.

Section 1303 Scope of Regulations

The off-street parking and loading provisions of this ordinance shall apply as follows:

1. Where the intensity of the use of any building, structure, or premise is increased, additional parking shall be provided to match the increased intensity of use;
2. Where an existing building or structure is converted to a new use, parking shall be provided according to the requirements of the new use;
3. Existing parking and loading serving any type of use shall not be reduced below the current intensity upon passage of this ordinance;
4. Off-street parking and loading may be established voluntarily, provided it meets the requirements of this ordinance;
5. Any application for a building permit shall include a plan accurately showing any parking or loading facilities to be provided; and
6. Off-street parking facilities for different buildings, structures, uses, or mixed uses may be provided collectively in any nonresidential zoning district.

Section 1305 Size of Stall

A required off-street parking stall shall be at least eight and one-half (8-1/2) feet in width and at least nineteen (19) feet in length, exclusive of access drivers and aisles, ramps or columns. A stall shall have a vertical clearance of at least seven (7) feet.

Section 1307 Miscellaneous Provisions

1. Parking is allowed in side and rear yards, except as provided elsewhere in this ordinance; and
2. No parking is allowed in the Sight Triangle, as defined herein.

RESERVED FOR FUTURE USE

ARTICLE 14

SIGNS

Section 1401 Purpose

The purpose of this section is to promote health, safety, general welfare, and order within the City of Freeman through the establishment of a comprehensive and impartial series of standards, regulations, and procedures governing the type, numbers, size, structure, location, height, lighting, use, and/or display of devices, signs of symbols serving as a visual communication media to persons situated within or upon public rights-of-way or properties. With this purpose in mind, it is the intention of this section to authorize signs which are:

1. Compatible with their surroundings;
2. Appropriate to the activity to which they pertain;
3. Expressive to the identity of the individual properties or the community as a whole;
4. Legible in the circumstances in which they are seen; and
5. Safely located with respect to passing vehicular and pedestrian traffic.

It is further the intent of this section to prohibit signs which:

1. Prevent or inhibit adequate light, air, or ventilation;
2. Inhibit the safety of vehicular or pedestrian traffic by actual physical or visual impairment or obstruction; and
3. Detract from the esthetics of the location, area, and community as a whole.

Section 1403 Permitted Signs

The following signs are allowed without a permit, but shall comply with all other applicable provisions of this ordinance:

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

- F. Political Campaign Signs - Signs or posters announcing the candidates seeking political office and/or political issues and a date pertinent thereto providing all such signs are located on private property. Such signs shall not exceed four (4) square feet in area. These signs shall remain in place for no longer than forty-five (45) days before and five (5) days after the election for which they are intended.

Section 1405 Prohibited Signs

The following signs are specifically prohibited by this ordinance:

1. Signs which obstruct the vision of drivers or pedestrians or detract from the visibility of any official traffic control device;
2. Signs which consist of banners, pennants, ribbons, streamers, strings of light bulbs, beacons, strobes spinners or similar devices for private or commercial purposes; and
3. Signs or posters which are tacked on tress, fences, utility poles or other such permanent support within the public right-of-way.

Section 1407 Off-Site Signs

All off-site signs shall conform to the following requirements:

1. Each sign shall have a surface area of not exceeding one (1) square foot for each two (2) linear feet of street frontage;
2. The highest point of any sign shall not exceed twenty (20) feet measured from ground level at its supports;
3. Each sign shall be no less than three hundred (300) feet from any other sign erected on the same side of the street;
4. Each sign shall not be closer than three hundred (300) feet from any street intersection at grade; and
5. Each sign shall not be located less than thirty (30) feet from a street right-of-way.

ARTICLE 15

ADMINISTRATION

Section 1501 Purpose

The purpose of this section of the ordinance is to outline specific rules and procedures whereby the provisions of this ordinance shall be administered and enforced.

Section 1503 Building Permit

1. General Provisions - Any person, firm, or corporation desiring to construction, erect, finish or make any additions to any buildings or structures within the city limits of Freeman, South Dakota, or desiring to move any building or structure from or into the City of Freeman, shall make application for a building permit to the Zoning Administrator or their designee. No building or other structure shall be erected, moved, added to, or use changed without a permit issued by the Zoning Administrator. A building permit shall not be issued by the Zoning Administrator except in conformity with the provisions of this Ordinance unless they received a written order from the Board of Adjustment in the form of an administrative review, conditional use, variance, or change in zone as provided by this Ordinance. A building or zoning permit shall not be issued for the construction of a cellar only for residential purposes.
2. Required Information - The application shall include such other information as may be lawfully required by the Zoning Administrator, including: the street address and legal description; building materials utilized in construction; estimated cost of construction; existing or proposed uses of the building and land; the number of families, housekeeping units, or rental units the building is designed to accommodate; and such other matters as may be necessary to determine conformance with, and provide for the enforcement of, this Ordinance.

All applications for building permits shall be accompanied by a site plan including but not limited to the following items; drawn to scale, including a north arrow, showing the property lines, actual dimensions and shape of the lot to be built upon, the exact sizes and locations on the lot of buildings already existing, if any; and the location and dimensions of the proposed building or alteration. Refer to document entitled Site Plan Requirements for a detailed example of site plan requirements.

3. Procedure - One copy of the site plan shall be returned to the applicant by the Zoning Administrator after they shall have marked such copy either as approved or disapproved and attested to same by their signature on such copy. If a building permit is refused, the Zoning Administrator shall state the reasons for such refusal in writing. The Zoning Administrator shall retain the original and one copy of the site plan, similarly marked. The issuance of a building permit, shall, in no case, be construed as waiving any provisions of this Ordinance.
4. Expiration of Building Permit - If the work described in any building permit has not begun within ninety (90) days from the date of issuance thereof, said permit shall expire; it shall be canceled by the Zoning Administrator and written notice thereof shall be given to the persons affected. If the work described in any building permit has not been substantially completed within one (1) year of the date of issuance thereof, said permit shall expire and be canceled by the Zoning Administrator and written notice thereof shall be given to the persons affected, together with notice that further work as described in the canceled permit shall not proceed unless, and until, a new building permit has been obtained.

5. Construction and Use - Building permits issued on the basis of plans and applications approved by the Zoning Administrator authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement or construction. Use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance.
6. Building Permit Display - All building permits issued by the Zoning Administrator must be placed in a conspicuous location on the building site for the duration of the construction of work described.
7. Fee - The Freeman City Council shall establish a schedule of fees, charges, and expenses and a collection procedure for building permits, variances, conditional uses, amendments, appeals and other matters pertaining to this Ordinance. The schedule of fees shall be posted in the office of the Zoning Administrator and may be altered or amended only by the Freeman City Council. Until all application fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

Section 1505 Zoning Administrator

The Zoning Administrator is an official of the City of Freeman, appointed by the Mayor and confirmed by the City Council. They shall be a member of the City Council. The Zoning Administrator shall have the responsibility of administering and enforcing the provisions of this ordinance by means of the following duties and powers:

1. Examine and approve any application pertaining to the use of land, buildings, or structures to determine if the application conforms with the provision of this ordinance;
2. Issue all zoning permits and certificates and keep permanent records thereof;
3. Conduct inspections of buildings, structures, and uses of land to determine their compliance with this ordinance;
4. Receive, file, and forward for action all applications for appeals, variances, conditional uses, and amendments to this ordinance;
5. Initiate, direct, and review, from time to time, a study of the provisions of this ordinance and make reports of their recommendations to the Planning Commission and the City Council no less frequently than once a year;
6. Maintain permanent and current records of the Zoning Ordinance including all maps, amendments, conditional uses, and variances; and
7. Provide and maintain public information relative to all matters arising out of this ordinance.

Section 1507 Board of Adjustment

1. Purpose - The purpose of the Board of Adjustment shall be for the following:
 - A. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this ordinance;
 - B. To hear and decide conditional uses to the terms of this ordinance upon which the Board is required to pass under the provisions of this ordinance;
 - C. To authorize upon appeal in specific cases variances from the terms of the ordinance where, owing to special conditions, a literal enforcement of the ordinance will result in unnecessary hardship, so that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done; and
 - D. To permit in appropriate cases, subject to appropriate conditions, and safeguards in harmony with the general purpose and intent of this ordinance, a building or premise to be erected or used for public utility purposes in any location which is reasonable and necessary for the public convenience and welfare.
2. Board of Adjustment - Pursuant to South Dakota Codified Laws the City Council shall serve as the Board of Adjustment for the City of Freeman. A decision by the Board of Adjustment shall not require additional action by the City Council.
3. Appeals - The Board of Adjustment shall follow the rules, taking of appeals, stay of proceedings, notice and hearing, disposition of appeals, and voting requirements for appeals as set forth in South Dakota Codified Laws.

Section 1509 Variance

1. Purpose - The Board of Adjustment may vary the regulations of this ordinance in harmony with its general purpose and intent, but only in specific instances where the Board makes a finding of fact based on the standards prescribed in **Section 1509 (4)**. Variances may be granted:
 - A. To permit any yard of less dimension than those required by this ordinance;
 - B. To permit any building to exceed the floor space provided by the ordinance;
 - C. To permit the use of lot prohibited solely because of insufficient area of the lot;
 - D. To permit construction of a building or structure which will exceed the height limit for the district in which it is to be built; and
 - E. To permit off-street parking which does not conform in quantity or other particulars with the requirements of this ordinance.

2. Application for Variance - The application for a variance shall be filed with the Zoning Administrator. The application shall contain the following information:
 - A. Name and address of applicant;
 - B. Statement that the applicant is the owner or the authorized agent of the owner of the property;
 - C. Address and description of the property;
 - D. An accurate site plan including the surrounding area for a distance of at least three hundred (300) feet from each boundary;
 - E. Names and addresses of adjacent property owners; and
 - F. The application shall be accompanied by a filing fee as established by the City Council.

3. Disposition by the Board of Adjustment - Within thirty (30) days of the receipt of the variance application, the Board of Adjustment shall hold at least one public hearing on the proposed request. The public hearing shall be recorded and filed in the zoning office. Notice of the time and place of the hearing shall be given once at least ten (10) days in advance by publication in a legal newspaper of the municipality. Due notice shall be given in writing to the applicant and owners of adjacent properties. Their failure to get the notice or attend the public hearing shall not invalidate the proceedings. The Board of Adjustment shall act on the amendment by:
 - A. Approval of the variance, provided the standards of Section 1509 (4) are met;
 - B. Approval of the variance with modifications, provided the standards of Section 1509 (4) are met;
 - C. Denial of the variance; and
 - D. The concurring vote of two-thirds (2/3) of the total board membership shall be necessary to approve the request.

4. Standards - For the Board of Adjustment to make an affirmative decision it must find that each of the following are met:
 - A. Denial of the variance would result in hardship to the property owner due to physical characteristics of the site;
 - B. The conditions upon which an application for a variance is based are unique to the property for which the variance is being sought;
 - C. The petition for a variance is not based exclusively upon a desire to increase the value or income potential of the property;
 - D. The granting of the variance will not be detrimental to the public welfare or injurious to the other property or improvements in the neighborhood in which the property is located;
 - E. The proposed variance will not jeopardize the intent and general and specific purposes of this ordinance; and

- F. The concurring vote of two-thirds (2/3) of the total board membership shall be necessary to approve the request.

Section 1511 Conditional Use

1. Purpose - The formulation and enactment of a comprehensive zoning ordinance is based on the divisions of the entire city and surrounding environs into districts in each of which are permitted specified uses that are mutually compatible. In addition to such permitted compatible uses, however, it is recognized that there are other uses which it may be necessary or desirable to allow in a given district, but which because of their potential influence upon neighboring uses or public facilities, need to be carefully regulated with respect to location or operation for the protection of the community. Such uses are classified in this ordinance as “conditional uses” and fall into two categories:
 - A. Uses which are either municipally operated or operated by publicly regulated utilities; and
 - B. Uses entirely private in character which, because of their particular location need, the nature of the service they offer to the public, or their possible damaging influence on the neighborhood, may have to be established in a district, or districts, in which they cannot reasonably be allowed as an unrestricted permitted use under the zoning regulations.
2. Application for Conditional Use Permit - An application for a Conditional Use Permit shall be filed with the Zoning Administrator. The application shall contain the following information:
 - A. Name and address of applicant;
 - B. Statement that the applicant is the owner or authorized agent of the owner of the property;
 - C. Address and description of property;
 - D. An accurate site plan including the surrounding area for a distance of at least three hundred (300) feet from each boundary;
 - E. Names and addresses of adjacent property owners; and
 - F. The application shall be accompanied by a filing fee, as established by the City Council.
3. Referral to Planning Commission - The Zoning Administrator shall refer the application for a Conditional Use Permit to the Planning Commission. The Planning Commission shall hold at least one public hearing on the proposed conditional use. The public hearing shall be recorded and filed in the zoning office. Notice of the time and place of the hearing shall be given once at least ten (10) days in advance by publication in a legal newspaper of the municipality. Due notice shall be given in writing to the applicant and owners of adjacent properties. Their failure to get the notice or attend the hearing shall not invalidate the proceedings.
4. Action by the Planning Commission - Within thirty (30) days of the public hearing, the Planning Commission shall act on the application for a Conditional Use Permit. The Planning Commission shall transmit in writing to the Board of Adjustment its recommendation for the disposition of the application. The Commission shall make one of the following recommendations:

- A. Approval of the Conditional Use Permit as presented by the applicant, provided the standards of Section 1511 (6) are met;
 - B. Approval with conditions, as per Section 1511 (7); and
 - C. Denial of the Conditional Use Permit.
5. Disposition by the Board of Adjustment - Within thirty (30) days of the receipt of the Planning Commission recommendation, the Board of Adjustment shall hold at least one public hearing on the proposed conditional use. The public hearing shall be recorded and filed in the zoning office. Notice of the time and place of the hearing shall be given once at least ten (10) days in advance by publication in a legal newspaper of the municipality. Due notice shall be given in writing to the applicant and owners of adjacent properties. Their failure to get the notice or attend the hearing shall not invalidate the proceedings. The Board of Adjustment shall act on the Conditional Use Permit application by:
- A. Approval of the issuance of the Conditional Use Permit as presented by the applicant, provided the standards of Section 1511 (6) are met;
 - B. Approval of the issuance of the Conditional Use Permit with conditions as per Section 1511 (7) as deemed necessary by the Board;
 - C. Denial of the Conditional Use Permit; and
 - D. The concurring vote of two-thirds (2/3) of the total board membership shall be necessary to approve the request.

A copy of the Conditional Use shall be supplied to the Zoning Administrator within ten (10) days of passage.

6. Standards - Prior to the Planning Commission recommending approval of, or the Board of Adjustment approving the issuance of a Conditional Use Permit, each body shall determine that the proposed conditional use will meet the following standards:
- A. It will in no way endanger public health, safety, comfort, and general welfare;
 - B. It will not be injurious to the enjoyment of other property in the immediate vicinity;
 - C. The establishment of the conditional use will not impede the orderly development and improvement of other nearby property for the uses permitted in the district;
 - D. Adequate utilities, access roads, drainage, and other necessary site improvements have been or are being provided;
 - E. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion and traffic hazards on public streets; and
 - F. It will conform to the applicable regulations of the district in which it is to be located.
7. Conditions - The Planning Commission may recommend and the Board of Adjustment may attach certain conditions to the conditional use. The applicant must then agree to the conditions prior to the issuance of a Conditional Use Permit. These conditions may include, but are not

limited to, lot sizes in excess of district minimums, screening and fencing, lighting, hours of operation, and increased parking requirements.

8. Lapse of Conditional Use Permit - A Conditional Use Permit shall lapse and become void one year after passage by the City Council unless the conditional use is fully established or a building permit has been issued and construction has commenced and is being pursued diligently according to the requirements of the permit. A Conditional Use Permit may be renewed for an additional period of one year by application to the approval of the Board of Adjustment.

Section 1513 Amendments

1. Purpose - The purpose of this section of the ordinance is to provide a procedure for changing district boundaries, district regulations, and other textual and map provisions of this ordinance. Amendments may be initiated by the Planning Commission, City Council, or by owners of the property proposed to be changed.
2. Petition for Amendment - A petition for an amendment shall be filed with the Zoning Administrator. The petition shall contain the following information if the amendment will affect only a particular property or properties:
 - A. Name and address of petitioner;
 - B. Statement that the petitioner is the owner or authorized agent of the owner of the property for which the change in district boundary or use is proposed;
 - C. Address and description of property;
 - D. An accurate site plan including the surrounding area for a distance of at least three hundred (300) feet from each boundary;
 - E. Name and address of adjacent property owners; and
 - F. The application shall be accompanied by a filing fee as established by the City Council.
3. Referral to Planning Commission - The Zoning Administrator shall refer the application for amendment to the Planning Commission. The Planning Commission shall hold at least one public hearing on the proposed amendment. The public hearing shall be recorded and filed in the zoning office. Notice of the time and place of the hearing shall be given once at least ten (10) days in advance by publication in a legal newspaper of the municipality. Due notice shall be given in writing to the applicant and owners of adjacent properties. Their failure to get the notice or attend the public hearing shall not invalidate the proceedings.
4. Action by the Planning Commission - Within thirty (30) days of the public hearing, the Planning Commission shall act on the proposed amendment. The Planning Commission shall transmit in writing to the City Council its recommendation for the disposition of the application. The Commission shall make one of the following recommendations:
 - A. Approval of the amendment as presented by the applicant;
 - B. Approval of the amendment with modifications; and
 - C. Denial of the amendment.

5. Disposition by the City Council - Within thirty (30) days of the receipt of the Planning Commission recommendation, the City Council shall hold at least one public hearing on the proposed amendment. The public hearing shall be recorded and filed in the zoning office. Notice of the time and place of the hearing shall be given once at least ten (10) days in advance by publication in a legal newspaper of the municipality. Due notice shall be given in writing to the applicant and owners of adjacent properties. Their failure to get the notice or attend the public hearing shall not invalidate the proceedings.

The City Council shall act on the amendment by:

- A. Approval of the amendment, provided the standards of Section 1513 (6) are met;
 - B. Approval of the amendment with modifications, provided the standards of Section 1513 (6) are met;
 - C. Denial of the amendment; and
 - D. The concurring vote of fifty-one (51) percent of the total Council membership shall be necessary to approve the request.
6. Standards - Prior to the Planning Commission recommending approval, or the City Council approving an amendment, each body shall determine that the proposed amendment will meet the following standards:
 - A. It will in no way endanger public health, safety, morals, comfort, and general welfare;
 - B. It will not be injurious to the enjoyment of other property in the immediate vicinity; and
 - C. It will not impede the orderly development and improvement of property in the city.

Section 1515 Appeals

It is the intent of this Ordinance that all questions of interpretation and enforcement shall be first presented to the Zoning Administrator, then the Planning Commission and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Planning Commission. Upon exhaustion of the administrative appeal process as described herein recourse shall be to the Court of competent jurisdiction.

ARTICLE 16

PENALTIES

Section 1601 Complaints Regarding Violations

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Zoning Administrator. The Zoning Administrator shall record properly such complaint with the Board of Adjustment and investigate and take action thereon as provided by this Ordinance.

If the Zoning Administrator shall find that any of the provisions of this Ordinance are being violated, they shall notify, in writing by certified mail with return receipt, the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. The party responsible for the violation shall respond within seven (7) working days from receipt of the letter; otherwise, they will be considered in violation and punishable under Section 1603.

Section 1603 Penalties for Violations

The owner or agent of a building or premises in or upon which a violation of any provisions of this Ordinance has been committed or shall exist, or lessee or tenant of an entire building or entire premises in or upon which such violation shall exist, shall be subject to any or all of the following:

1. A fine not to exceed two hundred (200) dollars for each violation;
2. Imprisonment for a period not to exceed thirty (30) days for each violation;
3. By both fine and imprisonment; and
4. An action for civil injunctive relief, pursuant to SDCL 21-8.

In addition, all costs and expenses involved in the case shall be paid by the defendant; each day such violation continues shall be a separate offense.

Any architect, engineer, builder, contractor, agent, or other person, who commits, participates in, assists in or maintains such violation may each be found guilty of a violation of the Ordinance and be subject to the same penalties herein provided.

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure or land is used in violation of this Ordinance, the Zoning Administrator or a designee as determined by the County Commission may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use; to restrain, correct or abate such violation; to prevent the occupancy of said building, structure or land; or to prevent any illegal act, conduct, business or use in or about such premises.

RESERVED FOR FUTURE USE

ARTICLE 17

SEPARABILITY

Section 1701 Separability

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

Section 1703 Purpose of Sub-Titles

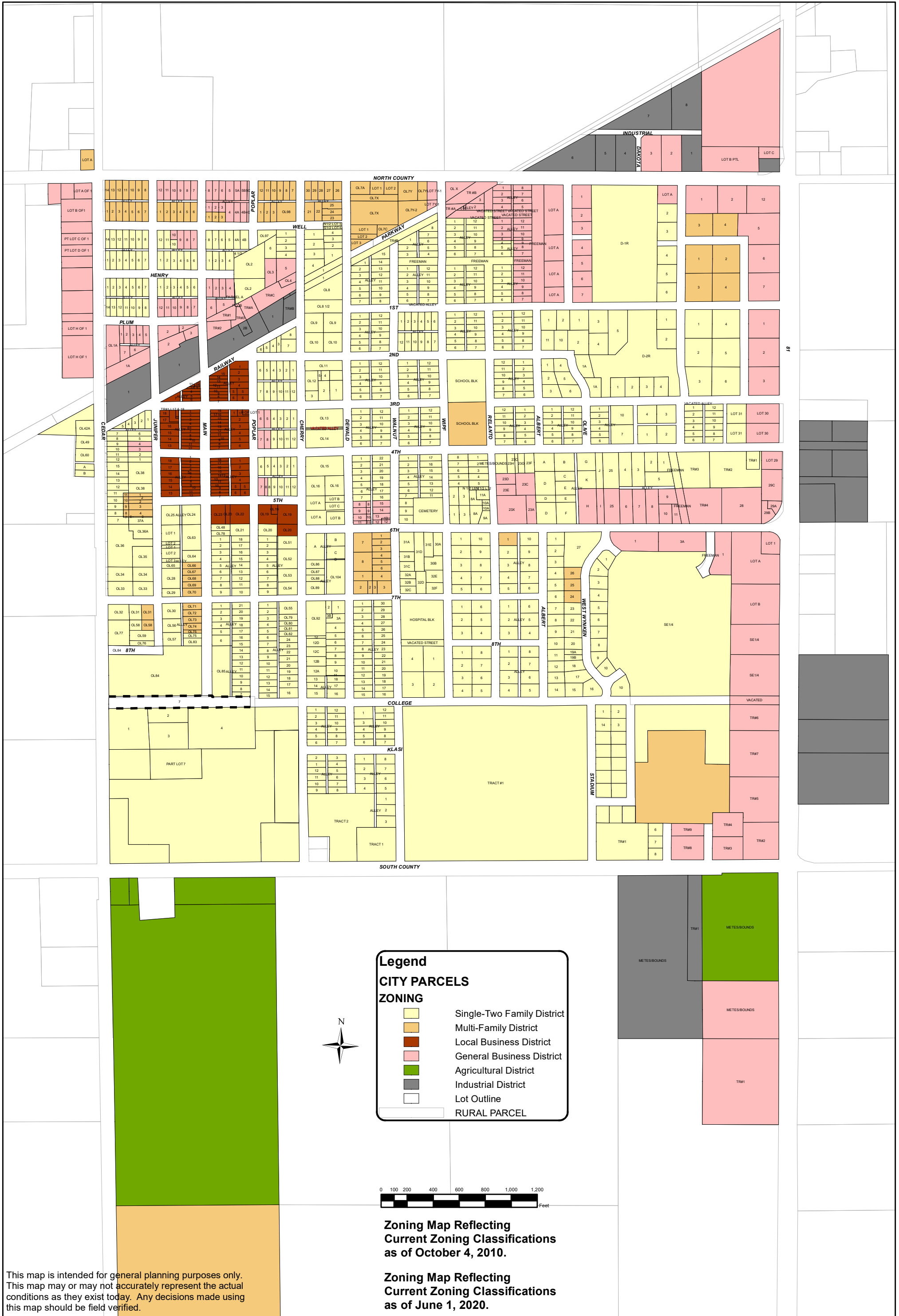
The sub-titles appearing in connection with the foregoing sections are inserted simply for convenience, to serve the purpose of any index and they shall be wholly disregarded by any person, officer, court or other tribunal in construing the terms and provisions of this Ordinance.

Section 1705 Effective Date

This Ordinance shall take effect and be in force from and after its adoption.

OFFICIAL ZONING MAP

CITY OF FREEMAN



Legend

CITY PARCELS

ZONING

- Single-Two Family District
- Multi-Family District
- Local Business District
- General Business District
- Agricultural District
- Industrial District
- Lot Outline
- RURAL PARCEL



Zoning Map Reflecting
 Current Zoning Classifications
 as of October 4, 2010.

Zoning Map Reflecting
 Current Zoning Classifications
 as of June 1, 2020.

This map is intended for general planning purposes only. This map may or may not accurately represent the actual conditions as they exist today. Any decisions made using this map should be field verified.