

**ARTICLE I
GENERAL PROVISIONS**

CHAPTER 1.01. TITLE AND APPLICATION

Section 1.01.01. Title.

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

Section 1.01.02. Jurisdiction.

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

Section 1.01.03. Purpose and Intent.

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

This ordinance has been prepared in accordance with the “Town of Summit Comprehensive Land Use Plan” and is designed to coordinate physical development of the community with needs for public services and facilities. More specifically, this zoning ordinance is adopted in order to achieve the following objectives:

1. To foster a harmonious, convenient, workable relationship among land uses.
2. To promote the stability of existing land uses that conform with the “Town of Summit Comprehensive Land Use Plan” and to protect them from inharmonious influences and harmful intrusions.
3. To insure that public and private lands ultimately are used for the purposes which are most appropriate and most beneficial from the standpoint of the community as a whole.
4. To prevent excessive population densities and overcrowding of the land with structures.
5. To protect and enhance real estate values.
6. To safeguard and enhance the appearance of the community, including natural amenities.
7. To place the power and responsibility of the use of land in the hands of the property owner contingent upon the compatibility of surrounding uses and the comprehensive land use plan.

CHAPTER 1.02. ORDINANCE PROVISIONS

Section 1.02.01. Provisions of Ordinance Declared to be Minimum Requirements.

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

Section 1.02.02. Violations/Penalties for Violation.

1. Violations of the ordinance shall be treated in the manner specified below.

- a. Any person who starts work for which a permit (building, conditional use, variance, rezoning) is required by this zoning ordinance, without first securing such permit and paying the prescribed fee, shall be charged according to the provisions of this section. All administrative fees assessed there under shall be rounded to the nearest whole dollar.
 - i. Upon finding such violation, the Administrative Official shall notify the owner of property involved verbally or by sending a written notification of the requirement that a permit be obtained to the owner of the property involved by certified mail with return receipt requested. If application for said permit is filed within seven (7) working days from the verbal notification or date of receipt of the letter, an administrative fee shall be assessed in the amount of one hundred percent (100%) of the fee for the building permit plus the cost of the postage for mailing the aforementioned notice. In no case shall this administrative fee be less than five dollars (\$5.00), including the postage costs.
 - ii. If application for said permit is filed after the deadline of seven (7) working days following the verbal notice or receipt of the notification of the requirement therefore, there shall be imposed an administrative fee in the amount of two (2) times the normal fee for the associated building permit, conditional use permit, variance, and/or rezoning plus the cost of the postage for mailing the aforementioned notice. The payment of the administrative fee shall not relieve such person from the provisions of paragraph (b) below.
 - iii. Any administrative fee or penalty imposed under the provisions of this zoning ordinance shall be in addition to any other fees or charges required under this zoning ordinance.
- b. It is declared unlawful for any person to violate any of the terms and provisions of these regulations or other official control adopted by the Town Board pursuant thereto. Any person who violates, disobeys, omits, neglects or refuses to comply with or resists the enforcement of any provision of this zoning ordinance may be subject to a civil or criminal penalty. The penalty for violation of this zoning ordinance shall be five hundred dollars (\$500.00) or imprisonment for not more than thirty (30) days, or both, and in addition the violator shall pay all costs and expenses involved in the case. Each and every day that such violation continues after notification may constitute a separate

offense. All fines for violation shall be paid to the Finance Officer and shall be credited to the General Fund of the Town.

- c. In the event any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or any building or structure or land is used in violation of this ordinance or other regulation, the Administrative Official, or the Town of Summit, as a corporation or any interested person, in addition to other remedies, may institute injunction, mandamus or any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use of land, to restrain, correct or abate such violation, to prevent the occupancy of said building or land or to prevent any illegal act, conduct, business, or use in and to and of such premises.
- d. Any taxpayer of the Town may institute mandamus proceedings in Circuit Court to compel specific performance by the proper official or officials of any duty required by these regulations.

Section 1.02.03. Separability Clause.

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

Section 1.02.04. Repeal of Conflicting Ordinances.

All prior ordinances or parts of prior ordinances in conflict with this ordinance are hereby declared repealed.

Section 1.02.05. Effective Date.

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

CHAPTER 1.03. OFFICIAL ZONING MAP

Section 1.03.01. The Official Zoning Map

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

The Official Zoning Map shall be identified by the signature of the Town Board President attested by the Finance Officer under the following words: "This is to certify that this is the Official Zoning Map referred to in Chapter 1.03 of Ordinance Number 2007-01 of the Town of Summit, State of South Dakota," together with the date of the adoption of this ordinance.

If, in accordance with the provisions of this ordinance and Chapter 11-4, as amended, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall not become effective until after said changes have been made on the Official Zoning Map by the Finance Officer or in his/her absence a person designated by the Town

Board. Any unauthorized change by any person or persons shall be considered a violation of this ordinance and punishable as provided under Chapter 1.02, Section 1.02.02.

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

Section 1.03.02. Rules Where Map Designation Uncertain.

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

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

Section 1.03.03. Annexation.

Subsequent of the effective date of these regulations, any land annexed into the municipal boundaries of the Town of Summit shall be automatically placed into the "A" Agricultural zoning district, unless and until such time as the area is rezoned by amendment of these regulations by ordinance, as provided for in Chapter 3.04, Section 3.04.06 of these regulations.

Section 1.03.04. Changes and/or Replacement of Official Zoning Map.

In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the Town Board may by resolution adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the Original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Town Board President attested by the Municipal Finance Officer, and bearing the seal of the Town under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of map being replaced) as part of the "Zoning Ordinance of the Town of Summit, State of South Dakota."

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

Changes to the Official Zoning Map shall require amendment of this regulation by ordinance, as provided for in Chapter 3.04, Section 3.04.06 of these regulations.

**ARTICLE II
DISTRICT REGULATIONS**

CHAPTER 2.01. APPLICATION OF DISTRICT REGULATIONS

Section 2.01.01. Applicability of Regulations.

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

Section 2.01.02. Compliance, Generally.

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

Section 2.01.03. Structures & Lots; Construction or Alteration; Limitations of.

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

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

CHAPTER 2.02. NONCONFORMING USES

Section 2.02.01. Intent.

Within the zoning districts established by this ordinance or amendments that may later be adopted there exist lots, structures, uses of land and structures, and characteristics of use which were lawful before this ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this ordinance or future amendment. It is the intent of this ordinance to permit these nonconformities to continue until they are removed, but not to encourage their survival. It is further the intent of this ordinance that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

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

To avoid undue hardship, nothing in this ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this ordinance and upon which construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

Section 2.02.02. Repairs and Maintenance.

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

If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located.

Section 2.02.03. Uses and Structures.

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

1. Whenever a nonconforming use or structure has been changed to a more restricted or conforming use, it shall not be changed back to a less restricted use.
2. If any nonconforming building is destroyed or damaged by any casualty, such building may be repaired or replaced and use continued providing said reconstruction shall not add to the non-conformity or add to the cubic contents of said building as the same existed at the time of such casualty; and provided further that such repair or reconstruction of such building shall begin within six (6) months after such casualty and be completed within a reasonable time thereafter. However, if the damage caused by such casualty is such as to cause a loss in value exceeding fifty (50) percent of the replacement value immediately prior to such casualty then it cannot be rebuilt for a non-conforming use. The loss in value shall be computed as the difference between the actual cash value of the structure immediately before and after the casualty. Cash value shall be the same as that used for insurance purposes as approved by the State of South Dakota Insurance Code.

3. When a nonconforming use or structure is discontinued for a period of one (1) year, it shall not be continued unless in conformance with the requirements of this ordinance and SDCL 11-6-39.
4. Any nonconforming use may be extended throughout any part of a structure which was arranged or designed for such use previous to the adoption of this ordinance, but shall not be extended outside such structure.
5. No existing nonconforming use or structure shall be enlarged, moved, or structurally altered except to change to a permitted use. This is not to include normal repairs and maintenance which do not enlarge, move or structurally alter a nonconforming use.
6. Type I and Type II Manufactured Homes located upon any lot or lots of record at the time of the adoption of this Ordinance may be replaced by Type I and/or Type II Manufactured Homes of like dimensions and said replacement shall not be deemed to have changed the use thereof from a nonconforming to a conforming use. If a replacement Type I and/or Type II Manufactured Home is of larger dimension than the existing Type I and/or Type II Manufactured Home, then application must first be made to the Board of Adjustment for a conditional use permit.
7. Nothing contained in this section shall be so construed as to abridge or curtail the powers of the Planning Commission, Town Board, and/or Board of Adjustment as set forth elsewhere in this Ordinance.

Section 2.02.04. Uses Under Conditional Use Provisions Not Nonconforming Uses.

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

Section 2.02.05. Nonconforming Lots of Record

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

If two (2) or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this ordinance, and if all or part of the lots do not meet the requirements established for lot width and area, the land involved shall be considered to be an undivided parcel for the purposes of this ordinance, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this ordinance, nor shall any division of any parcel be made which creates a lot with width or area below the requirements in this ordinance.

CHAPTER 2.03. DISTRICT REGULATIONS

Section 2.03.01. Generally.

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

Any use or uses not expressly permitted in a particular district shall be prohibited, unless such uses are existing at the effective date of these regulations and qualify as nonconforming uses, or unless a Conditional Use Permit is granted as provided for in Chapter 3.04, Section 3.04.02 of these regulations.

Deviation from zoning district lot, yard and related requirements, and deviation from these zoning regulations, shall be prohibited, unless a Variance is granted as provided for in Chapter 3.04, Section 3.04.04 of these regulations.

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

Section 2.03.02. Zoning Districts.

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

1. "A" Agricultural District
2. "C1" Central Commercial District
3. "HC" Highway Commercial District
4. "I" Industrial District
5. "PUD" Planned Unit Development District
6. "R1" General Residential District
7. "R2" Manufactured Home Residential District

CHAPTER 2.04. "A" AGRICULTURAL DISTRICT

Section 2.04.01. Intent.

The intent of the "A" Agricultural District is to protect agricultural land and uses from incompatible land uses and to prevent premature urban development of certain lands which eventually may be appropriate for urban uses, until the installation of drainage works, streets, utilities and community facilities and until objective projections of appropriate land uses are possible.

Section 2.04.02. Permitted Uses.

The following uses and structures shall be permitted in the "A" Agricultural District:

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

Section 2.04.03. Permitted Accessory Uses.

The following accessory uses and structures shall be permitted in the "A" Agricultural District:

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

Section 2.04.04. Conditional Uses.

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

1. Type II manufactured homes.
2. Airports.
3. Cemeteries.
4. Commercial or private recreation areas or developments such as golf courses, campgrounds, drive-in theaters, riding stables, racetracks, swimming pools, etc.
5. Extraction of sand, gravel, minerals and petroleum or natural gas.
6. Public buildings or facilities erected or established and operated by any governmental agency.

7. Telecommunication facilities.
8. Animal sales/auction yards or barns.
9. Home occupations.
10. Utility substations.
11. Stable.
12. Commercial Stable.
13. Veterinarian offices and animal hospitals.
14. Nurseries and greenhouses.
15. Commercial grain or vegetable farming or gardening on land assessed as agricultural land but not involving a sales structure.
16. Wind Energy System (WES).

Section 2.04.05. Prohibited Uses.

All uses and structures not specifically listed as either a Permitted Use or Conditional Use shall be prohibited in the "A" Agricultural District.

Section 2.04.06. Area Regulations.

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

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

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

CHAPTER 2.05. "C1" CENTRAL COMMERCIAL DISTRICT

Section 2.05.01. Intent.

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

Section 2.05.02. Permitted Uses.

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

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

Section 2.05.03. Permitted Accessory Uses.

The following accessory uses and structures shall be permitted in the "C1" Central Commercial District:

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

Section 2.05.04. Conditional Uses.

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

1. Retail sales of lumber and other building materials, farm equipment, motor vehicles.
2. Marine crafts, mobile homes, trailers, farm and garden supplies, fuel and ice.
3. Truck or bus terminal.
4. Bar or tavern.
5. Manufacture or assembly of products and goods.
6. Wholesale merchandising or storage warehouse.
7. Licensed day care center.
8. Multiple-family dwelling.
9. Hotel/motel.
10. Establishments manufacturing a product to be sold at retail on premises to the ultimate consumer.
11. Parking lot and/or garage.
13. On-Off sale Liquor establishment.
14. Automobile filling station.
15. Automobile repair station.

Section 2.05.05. Prohibited Uses.

All uses and structures not specifically listed as either a Permitted Use or Conditional Use shall be prohibited in the “C1” Central Commercial District.

Section 2.05.06. Area/Construction Regulations.

1. **Minimum Lot Requirements** – Permitted uses shall have a minimum lot area of two thousand five hundred (2,500) square feet and a minimum lot width of twenty-five (25) feet. Uses permitted by a Conditional Use Permit shall have a minimum lot area and width as determined by the Board of Adjustment.

2. **Minimum Yard Requirements** – No yards shall be required in the “C1” Central Commercial District, however, all buildings located on lots adjacent to a residential zoning district shall observe a yard requirement equivalent to the minimum yard requirements of the residential district on the side or sides adjacent. Uses permitted by a Conditional Use Permit shall have minimum yard requirements as determined by the Board of Adjustment.
3. **Maximum Lot Coverage** – The maximum lot coverage for all permitted uses shall not exceed ninety percent (90%). The maximum lot coverage for all uses permitted by a Conditional Use Permit shall be as determined by the Board of Adjustment.
4. **Maximum Height** – The maximum height of all buildings and structures shall not exceed forty (40) feet.
5. **Construction Requirements** – All commercial buildings/structures shall be constructed on-site. Off-site constructed or moved-in structures may be allowed only as a Conditional Use.

CHAPTER 2.06. "HC" HIGHWAY COMMERCIAL DISTRICT

Section 2.06.01. Intent.

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

Section 2.06.02. Permitted Uses.

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

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

Section 2.06.03. Permitted Accessory Uses.

The following accessory uses and structures shall be permitted in the "HC" Highway Commercial District:

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

Section 2.06.04. Conditional Uses.

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

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

Section 2.06.05. Prohibited Uses.

All uses and structures not specifically listed as either a Permitted Use or Conditional Use shall be prohibited in the “HC” Highway Commercial District.

Section 2.09.06. Area/Construction Regulations.

1. **Minimum Lot Requirements** – The minimum lot area for permitted uses shall be twenty thousand (20,000) square feet. The minimum lot width for permitted uses shall be one hundred (100) feet. The minimum lot area and width for uses permitted by a Conditional Use Permit shall be as determined by the Board of Adjustment.
2. **Minimum Yard Requirements** – Permitted uses shall have a minimum front yard of twenty-five (25) feet, minimum side yards of ten (10) feet, and a minimum rear yard of twenty (20) feet. The minimum yard requirements for uses permitted by a Conditional Use Permit shall be as determined by the Board of Adjustment.
3. **Maximum Lot Coverage** – The maximum lot coverage for all buildings and structures shall not exceed seventy-five percent (75%) of the total lot area. The maximum lot coverage for uses permitted by a Conditional Use Permit shall be as determined by the Board of Adjustment.
4. **Maximum Height** – The maximum height of all buildings and structures shall not exceed forty-five (45) feet.
5. **Construction Requirements** – All commercial buildings/structures shall be constructed on-site. Off-site constructed or moved-in structures may be allowed only with a Conditional Use Permit.

CHAPTER 2.07. "I" INDUSTRIAL DISTRICT

Section 2.07.01. Intent.

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

Section 2.07.02. Permitted Uses.

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

1. Horticulture and the raising of field crops.
2. Utility substations.
3. Storage plants, lumberyards, distributing stations and warehouses.
4. Motor freight terminals, garaging and equipment maintenance.
5. Light assembly work, machine shops doing assembling or shaping and light cutting and sampling, provided that there is not outside storage of materials or product.
6. Woodworking shops or plants, provided that there is not outside storage of materials or product.

Section 2.07.03. Permitted Accessory Uses.

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

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

Section 2.07.04. Conditional Uses.

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

1. Junk or salvage yards, provided that the area is enclosed or screened from public view as required by the Board of Adjustment.
2. Contractor shops and yards.
3. Food manufacturing plants.
4. Grain elevators.
5. Automotive body repair.

6. Adult uses, which include but are not necessarily limited to adult entertainment facilities, adult bookstores, and adult motion picture theaters.
7. Other industrial or commercial uses determined by the Board of Adjustment to be consistent with the intent of this District that can meet the performance standards listed in Section 2.07.08.

Section 2.07.05. Prohibited Uses.

All uses and structures not specifically listed as either a Permitted Use or Conditional Use shall be prohibited in the "I" Industrial District.

Section 2.07.06. Area/Construction Regulations.

1. **Minimum Lot Requirements** – The minimum lot area for permitted uses shall be thirty thousand (30,000) square feet. The minimum lot width for permitted uses shall be one hundred fifty (150) feet. The minimum lot area and width for uses permitted by a Conditional Use Permit shall be as determined by the Board of Adjustment.
2. **Minimum Yard Requirements** – Permitted uses shall have a minimum front yard of fifty (50) feet; minimum side yards of ten (10) feet, except when bordering a residential district, then a side yard should be thirty-five (35) feet and such side yards shall be landscaped or fenced in a suitable manner to buffer residential uses; and a minimum rear yard depth of thirty-five (35) feet shall be required when an industrial district abuts a residential district and such rear yard shall be landscaped or fenced in a manner to buffer residential uses. All other rear yards shall be twenty-five (25) feet. The minimum yard requirements for uses permitted by a Conditional Use Permit shall be as determined by the Board of Adjustment.

All outdoor storage within five hundred (500) feet of a residential zoning district must be completely enclosed in a building or by a solid walled fence at least two (2) feet above the highest point of the stockpile and said fence shall be maintained in safe and good repair.

Storage yards for junk shall be set back a minimum of one hundred (100) feet from any adjoining street line and thirty-five (35) feet from any other property line, and shall be screened by a solid wall at least two (2) feet above the highest stock pile and maintained in a state of good repair. Further provided, that no storage yard for junk shall be allowed on any lot in an "I" Industrial Zone that is within five hundred (500) feet of a residential zone.

3. **Maximum Lot Coverage** – The maximum lot coverage for all buildings and structures shall not exceed fifty percent (50%) of the total lot area. The maximum lot coverage for uses permitted by a Conditional Use Permit shall be as determined by the Board of Adjustment.
4. **Maximum Height** – The maximum height of all buildings and structures shall not exceed fifty (50) feet.
5. **Construction Requirements** – All industrial buildings/structures shall be constructed on-site. Off-site constructed structures or moved-in structures may be allowed only with a Conditional Use Permit.

Section 2.07.06. Exception.

The Industrial Zoned Lots 15, 16, 17, 18, and 19 located north of Jackson Avenue and between Maple Street and the eastern corporate limits of the Town shall utilize the following minimum yard requirements: Permitted uses shall have a minimum front yard of thirty-five (35) feet and minimum side and rear yards of ten (10) feet. When bordering a residential district such required yards shall be landscaped and/or fenced in a suitable manner to buffer residential uses. The minimum yard requirements for uses permitted by a Conditional Use Permit shall be as determined by the Board of Adjustment.

Section 2.07.08. Performance Standards.

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

CHAPTER 2.08. "PUD" PLANNED UNIT DEVELOPMENT DISTRICT

Section 2.08.01. Intent.

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

Section 2.08.02. Application and Modification Powers.

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

Section 2.08.03. Procedure.

The following procedural and informational requirements shall be followed for Planned Unit Development requests:

1. Planning Commission Review: Applicant shall meet with the Planning Commission on an informal basis at its regular meeting to relate his intent. The Planning Commission will evaluate the consistency of his intent with the comprehensive guide plan. Thereafter, the Planning Commission may refer the application to the Town staff or consultants to review materials presented and to discuss the plan proposal, suggest alternatives as necessary, and authorize presentation of concept plan and supportive information.
2. Concept Plan and Supportive Information: Applicant shall prepare the following supportive graphic and written information materials as follows:
 - a. Property description and acreage, identification of owner and developer.
 - b. Existing conditions, area relationships, surrounding property ownership, relationship to guide plan, existing land use, transportation, zoning, utilities, etc.
 - c. Natural features, water, topography, soils, vegetation, etc., and their implications, if any, for development.

- d. Concept plan showing land use areas, land use intensities, acreages, number of units, proposed circulation, open space, recreation and development staging.
- e. Written information describing proposed land use and land use objectives, the type and character of buildings, methods of providing utilities, etc.

3. Final Development Plan:

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

Section 2.08.04. Final Application – Rezoning.

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

Section 2.08.05. Review.

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

Section 2.08.06. Final Development Plan.

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

CHAPTER 2.09. "R1" GENERAL RESIDENTIAL DISTRICT

Section 2.09.01. Intent.

The intent of the "R1" General Residential District is to provide locations for low-density site-built, single-family residential dwellings. Other types of residential dwellings may be permitted based upon complying with site review and adjacent landowner concerns.

Section 2.09.02. Permitted Uses.

The following uses and structures shall be permitted in the "R1" General Residential District:

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

Section 2.09.03. Permitted Accessory Uses.

The following accessory uses and structures shall be permitted in the "R1" General Residential District:

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

Section 2.09.04. Conditional Uses.

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

1. Lodging/boarding houses or bed and breakfast establishments.
2. Utility substations.
3. Home occupations.
4. Churches.
5. Type II manufactured homes.
6. Two-family dwellings.

7. Multiple-family dwellings (i.e., apartment buildings, town houses, and group row houses).
8. Hospitals, nursing homes, and homes for the aged. Any building approved for such use shall be set back not less than fifty (50) feet from the street line on which it fronts and shall have side and rear setbacks of not less than thirty (30) feet and shall meet other requirements of this Ordinance.
9. Commercial storage buildings used exclusively for storage and not for performance of any other services.

Section 2.09.05. Prohibited Uses.

All uses and structures not specifically listed as either a Permitted Use or Conditional Use shall be prohibited in the "R1" General Residential District.

Section 2.09.06. Area Regulations.

1. **Minimum Lot Requirements** – The minimum lot area for residences shall be five thousand (5,000) square feet. The minimum lot width for residences shall be fifty (50) feet. Other Permitted Uses and uses permitted by a Conditional Use Permit shall have a minimum lot area and width as determined by the Board of Adjustment.
2. **Maximum Lot Coverage** – The maximum lot coverage for all buildings and structures shall not exceed thirty percent (30%) of the total lot area.
3. **Minimum Yard Requirements** – Permitted uses shall have a minimum front yard of twenty (20) feet, minimum side yards of seven (7) feet, and a minimum rear yard of ten (10) feet. Uses permitted by a Conditional Use Permit shall have minimum yard requirements as determined by the Board of Adjustment.
4. **Height Regulations:**

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

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

CHAPTER 2.10. "R2" MANUFACTURED HOME RESIDENTIAL DISTRICT

Section 2.10.01. Intent.

The purpose of the "R2" Manufactured Home Residential District is to permit the development of a single-family residential manufactured home park located in an appropriate environment. It is the purpose of the "R2" District to encourage site development in accordance with good planning principles; to prevent detrimental effects to the use or development of adjacent properties or the general neighborhood; and to promote the health, safety and welfare of the present and future inhabitants of the Town.

Section 2.10.02. Permitted Uses.

The following uses and structures shall be permitted:

1. Manufactured home park developments.
2. Manufactured home subdivisions.
3. Any permitted use in the "R1" District.
4. Type II manufactured homes.

Section 2.10.03. Permitted Accessory Uses.

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

Section 2.10.04. Conditional Uses.

The following uses may be permitted as a Conditional Use in the "R2" Manufactured Home Residential District by the Board of Adjustment, subject to such requirements as the Board deems necessary to protect adjacent property, prevent objectionable or offensive conditions and promote the health, safety and general welfare.

1. Utility substations.
2. Home occupations.
3. Commercial storage buildings used exclusively for storage and not for performance of any other services.

Section 2.10.05. Prohibited Uses.

All uses and structures not specifically listed as either a Permitted Use or Conditional Use shall be prohibited in the "R2" Manufactured Home Residential District.

Section 2.10.06. Manufactured Home Parks Minimum Standards.

Manufactured home parks shall meet the following minimum standards:

1. Streets.

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

2. Open Space or Buffer Zone.

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

3. Lot Area.

Each lot provided for the occupancy of a single manufactured home unit shall be not less than fifty (50) feet in width and have an area of not less than five thousand five hundred (5,500) square feet, and the same shall be defined by markers at each corner.

4. Density.

No park shall be permitted an average net density of manufactured home lots of more than eight (8) units per acre and each park shall provide an area of not less than two (2) acres.

5. Spacing and Yard Requirements.

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

a. Front Yard.

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

b. Side and Rear Yards.

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

c. Exceptions to Minimum Yard Requirements.

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

A deck may project into a required side or rear yard provided it is located no closer than four (4) feet to any other structures.

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

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

d. Maximum Lot Coverage.

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

6. Parking.

Two (2) off-street automobile parking spaces shall be provided for each manufactured home. Such off-street parking spaces shall be set-aside in a location convenient to the occupants of the trailer or camping units and shall have ingress and egress by means of a public way. Where parking areas are provided adjacent to a public street, ingress and egress thereto shall be made accessible only through driveways or openings not exceeding twenty-five (25) feet in width in the curb line of said street.

7. Refuse Collection.

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

8. Recreation Area.

The developer of the manufactured home park may be required to dedicate no less than eight percent (8%) of the gross site area to recreational facilities appropriate to the needs of the occupants. The designated recreation area shall be approved by the Planning Commission.

9. Storm Shelter.

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

10. On-Site Management.

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

11. Water Supply and Distribution System and Sewage Disposal.

Each manufactured home shall be connected to the Town of Summit's sanitary sewer and water system.

12. Tie Down Requirements.

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

13. Maximum Age Limitation.

No manufactured home placed within a manufactured home park within the Town limits of Summit may exceed ten (10) years from the date of manufacture.

14. Expansion.

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

15. Building/Moved-in Building Permit Required.

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

16. Skirting.

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

Section 2.10.07. Application Procedure.

Each application for an "R2" Manufactured Home Park shall be accompanied by a development plan incorporating the regulations established herein. The plan shall be drawn to scale and indicate the following:

The following requirements pertain to manufactured home parks:

1. Location and topography of the proposed manufactured home park, including adjacent property owners and proximity to Federal and State highways, and County, Township, and Town roads/streets.

2. Property lines and square footage of the proposed park.
3. Location and dimensions of all easements and rights-of-way.
4. Proposed general layout, including parking and recreation areas.
5. General street and pedestrian walkway plan.
6. General utility, water, and sewer plan.

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

Section 2.10.08. Manufactured Housing Subdivisions.

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

ARTICLE III ADMINISTRATION

CHAPTER 3.01. GENERAL

Section 3.01.01. Permits Required.

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

Section 3.01.02. Applications.

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

Section 3.01.03. Fee Schedule.

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

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

Section 3.01.04. Issuance of Permits.

Permits issued on the basis of plans and applications approved by the Administrative Official authorize only the use, arrangement, and construction set forth in such approved plans and applications, and other use, arrangement, or construction at variance with that authorized shall be deemed a violation of this ordinance and punishable as provided by Section 1.02.02 of this code.

Section 3.01.05. Expiration of Use Permit.

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

If the work described in any use permit has not been substantially completed within one (1) year of the date of issuance thereof, said permit shall expire and be canceled by the Administrative Official, and written notice thereof shall be given to the persons affected, together with noticed that further work as described in the canceled permit shall not proceed unless and until a new permit has been obtained.

CHAPTER 3.02. ADMINISTRATIVE OFFICIAL

Section 3.02.01. Establishment and Purpose.

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

Section 3.02.02. Duties.

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

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

8. Forward to the Planning Commission all applications for amendments to this ordinance.
9. Forward to the Board of Adjustment, applications for appeals, variances, or other matters on which the Board of Adjustment is required to pass under this ordinance.
10. Initiate, direct, and review, from time to time, a study of the provisions of this ordinance, and to make such reports available to the Planning Commission. The Administrative Official shall receive applications for Building Permits, Conditional Use Permits, Variances, and Zoning Amendments.

For Building Permits, the Administrative Official shall approve the application only in accordance with the provisions of the Town of Summit's Zoning Regulations.

For Conditional Use Permits and Variances, the Administrative Official shall review the application and may make a recommendation to the Board of Adjustment to either approve or not approve said application.

For Zoning Amendments, the Administrative Official shall review the application and may make comments regarding said application to the Planning Commission.

Section 3.02.03. Powers.

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

CHAPTER 3.03. BOARD OF ADJUSTMENT

Section 3.03.01. Establishment.

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

Section 3.03.02. Procedures for Meetings.

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

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

Section 3.03.03. Hearings; Appeals; Notice.

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

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

Section 3.03.04. Stay of Proceedings.

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

Section 3.03.05. Power and Duties of Board of Adjustment.

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

1. Administrative Review

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

2. Conditional Use Permits:

To hear and decide only such conditional use permit applications as the Board of Adjustment is specifically authorized to pass on by the terms of this ordinance; to decide such questions as are involved in determining whether Conditional Use Permits should be granted; and to grant conditional use permit with such conditions and safeguards as are appropriate under this ordinance, or to deny Conditional Uses when not in harmony with the purpose and intent of this ordinance.

3. Variances:

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

CHAPTER 3.04. PROCEDURES FOR APPLICATIONS

Section 3.04.01. Building Permits.

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

1. An Application for a Building Permit, accompanied with the appropriate fee, available from the Administrative Official or Finance Officer, shall be completed by the landowner requesting the Building Permit. Completed applications shall be returned to the Administrative Official for review. To be considered complete, the application form shall be accompanied by the following additional items:
 - a. Applications for building permits shall be accompanied by a set of plans drawn to scale with the following information indicated in order to determine compliance with this ordinance.
 - b. A plot plan, drawn to scale, showing the exact size, shape, and dimensions of the lot to be built upon, the exact size and location on the lot of all existing buildings and structures, and the exact size and location on the lot of the structure or building proposed to be repaired, altered, erected, or moved, and the size, arrangement, number of parking stalls, movement of vehicles and ingress and egress drives for all off-street parking and loading facilities.
 - c. The location of the said lot with respect to existing rights-of-way and adjacent lots.
 - d. A letter of certification stating that the lot to be built upon has been accurately surveyed.
 - e. Any other information which the Administrative Official may deem necessary for consideration in enforcing the provisions of this ordinance.
 - f. Any of the above requirements may be waived by the Administrative Official in cases of permits to alter the interior of any existing structure or in the event lot markers (pins) have been located.

2. One copy of the plans shall be returned to the applicant, after the Administrative Official has marked such copy as either approved or disapproved, and attested to the same by signing said copy of the plans. One copy of the plans, similarly marked, shall be retained by the Administrative Official for Town records.
3. The Administrative Official shall then, if the application is approved, issue a signed building permit. If the Administrative Official determines the proposed action would not be in compliance with the provisions of these regulations, a building permit may not be issued, and the applicant may then appeal the action of the Administrative Official to the Board of Adjustment.
4. Building permits shall be posted in a conspicuous place upon the premises and visible from a public right-of-way at all times from the beginning until completion of such construction, alteration, or repair.

Section 3.04.02. Conditional Use Permits.

Conditional Use Permits are allowed for certain uses in some districts, as identified in Article II District Regulations. Uses not listed in the District Regulations as a Conditional Use shall not, in any circumstances, be granted a conditional use permit.

The following procedure for requesting a conditional use permit shall be followed:

1. The following procedure shall be followed by the Board of Adjustment in considering the recommendation of the Administrative Official. A conditional use shall not be granted by the Board of Adjustment unless and until:
 - a. An application for a conditional use permit, available from the Administrative Official or Finance Officer, shall be completed by the landowner requesting conditional use permit. The application shall further be accompanied by any required attachments and fees as in Section 3.01.03. The written application for a conditional use permit shall indicate the section of this ordinance under which the conditional use is sought and stating the grounds on which it is requested. Completed applications shall be returned to the Administrative Official for review.

To be considered by the Board of Adjustment, the application form shall be completed. If any of the information required by Section 3.04.01 has changed since the original Building Permit Application, the revised, updated or corrected information shall accompany the application for a conditional use permit.

- b. The Administrative Official shall review the application and forward the application to the Board of Adjustment.
- c. The Administrative Official shall set the date, time and place for a public hearing to be held by the Board of Adjustment. The Administrative Official shall notify the landowner and all owners of property within 150 feet, excluding streets, and alleys, by Registered or Certified Mail at the expense of the applicant, at least one (1) week before the public hearing. The Administrative Official shall publish notice of the public hearing, with all costs to be paid by the applicant not less than ten (10) days prior to the public hearing in a newspaper of general circulation in the area affected by the proposed conditional use permit.

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

Section 3.04.03. Variances.

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

The following procedures for requesting a Variance shall be followed:

1. The following procedure shall be followed by the Board of Adjustment in considering the recommendation of the Administrative Official. A variance from the terms of this ordinance shall not be granted by the Board of Adjustment unless and until:
 - a. An Application for Variance, available from the Administrative Official or Finance Officer, shall be completed by the landowner requesting the variance, and shall be accompanied by any required attachments and fees as in Section 3.01.03. The written application for a Variance shall indicate the section of this ordinance under which the Variance is sought and stating the grounds for which it is requested. Completed application shall be returned to the Administrative Official for review. To be considered by the Board of Adjustment, the application form shall be completed. If any of the information required by Section 3.04.01 has changed since the original Building Permit application, the revised, updated or corrected information shall accompany the application for a Variance.
 - b. The Administrative Official shall review and forward the application to the Board of Adjustment to either approve or not approve said application.
 - c. The Administrative Official shall set the date, time and place for a public hearing to be held by the Board of Adjustment. The Administrative Official shall notify the landowner and all owners of property within 150 feet, excluding streets, and alleys, by Registered or Certified Mail at the expense of the applicant, at least one (1) week before the public hearing. The Administrative Official shall publish notice of the public hearing, with all costs to be paid by the applicant not less than ten (10) days prior to the public hearing in a newspaper of general circulation in the area affected by the proposed variance.
 - d. A public hearing shall be held. Any party may appear in person, or by agent or attorney.
 - e. The following procedures shall be followed by the Board of Adjustment in considering the recommendation of the Administrative Official. A variance from the terms of this ordinance shall not be granted by the Board of Adjustment unless and until:
 - i. A written application for a variance is submitted demonstrating:
 - a) That special conditions and circumstances exist which are peculiar to the land, structure or building involved, and which are not applicable to other land, structures, or buildings in the same district;

- b) That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance;
 - c) That the special conditions and circumstances do not result from the actions of the applicant;
 - d) That granting the variance request will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district; and
 - e) No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.
2. The Board of Adjustment shall make findings that the requirements of Section 3.04.03.1.e.i. above have been met by the applicant for a variance;
 3. The Board of Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure;
 4. The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare;
 5. Approval or denial of any variance shall be by a two-thirds (2/3) majority of all members of the Board of Adjustment.
 6. In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable under Chapter 1.02, Section 1.02.02 of this Code.
 7. Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district.

Section 3.04.04. Board Has Power of Administrative Office on Appeals; Reversing Decision of Administrative Official.

1. It is the intent of this ordinance that all questions of interpretation and enforcement shall be first presented to the Administrative Official, and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Administrative Official.
2. In exercising the above-mentioned powers, the Board of Adjustment may, so long as such action is in conformity with the terms of this ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have the powers of the Administrative Official from whom the appeal is taken.

3. The concurring vote of two-thirds (2/3) majority of all members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision, or determination of the Administrative Official, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to effect any variation in the application of this ordinance.

Section 3.04.05. Appeals.

Any person(s) or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment, or any person(s) may present to a court of record a petition duly verified, setting forth that the decision is illegal, in whole or in part, specifying the grounds of the illegality. The petition shall be presented to the court within thirty (30) days after the filing of the decision in the office of the Finance Officer.

Section 3.04.06. Zoning Amendments.

The regulations, restrictions and boundaries set forth in this ordinance may from time to time be amended, supplemented, changed, or repealed, provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Unless otherwise provided for in these Zoning Regulations, any change in these Zoning Regulations shall require Town Board approval of an ordinance describing said changes. The Town Board may not consider said ordinance until the Planning Commission has delivered a recommendation to either approve or not approve said ordinance.

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

1. An application for a zoning amendment, available from the Administrative Official or Finance Officer, shall be completed by the landowner or other person(s) requesting the Amendment. Completed applications shall be returned to the Administrative Official for review. To be considered by the Planning Commission and Town Board, the application form shall be completed and shall be accompanied by the following items:
 - a. Any required attachments and Town fees, including Registered or Certified Mail costs in Section 3.01.03; and
 - b. Any additional information, as requested by the Administrative Official, as lawfully may be required to determine conformance with and provide for the enforcement of this ordinance.
 - c. The Administrative Official shall review the application and shall forward a summary of the application, and his/her comments regarding said application, to the Planning Commission for their review.

- d. The Administrative Official shall set the date, time and place for a joint public hearing to be held by the Planning Commission and Town Board. The Administrative Official shall notify the landowner/applicant by mail at least one (1) week before the public hearing, The Administrative Official shall also publish notice of the public hearing in a newspaper of general circulation in the area affected by the proposed Amendment; such notice shall be published not less than ten (10) days prior to the public hearing. If the proposed amendment will change the boundaries of a zoning district, the Administrative Official shall notify all owners of property within one hundred fifty (150) feet, excluding streets and alleys, of the proposed boundary change, by Registered or Certified Mail at the expense of the applicant, at least one (1) week before the public hearing.
- e. The public hearing shall be held. Any person may appear in person, or by agent or attorney. Minutes of the public hearing shall be recorded and kept in the records of the Planning Commission.
- f. The Planning Commission shall either recommend or not recommend approval of the amendment to the Town Board.
- g. The Town Board shall either approve or not approve the ordinance describing the proposed changes to these Zoning Regulations, in accordance with standard procedures for reading, approval, publication and effective date.
- h. When the Town Board approves a proposed amendment affecting the zoning classification of property, affected property owners may file a written protest to stop such an amendment from taking effect. If the protest meets the following standard, such amendment shall not become effective unless the amendment is approved by two-thirds of the Town Board.

Protest Standard: The protest shall be signed by at least forty percent (40%) of the owners of equity in the parcels in the area affected by the amendment, and the parcels or parts of parcels within two hundred fifty (250) feet of the area affected by the amendment.

Section 3.04.07 Reapplication.

- 1. No application requesting a variance, conditional use, or zoning ordinance amendment or district classification change on any property whose application includes any such property either entirely or substantially the same as that which has been denied by the Board, shall again be considered by the Planning Commission or Board of Adjustment before the expiration of six (6) months from the date of the final action of the Planning Commission or Board of Adjustment.

CHAPTER 3.05. Planning Commission

Section 3.05.01 Planning Commission Created.

There is hereby created a Planning Commission for the Town of Summit, South Dakota and for land within three (3) miles of its corporate limits.

Section 3.05.02 Membership of the Planning Commission.

The Planning Commission shall consist of the Town Board President and Town Board Trustees. The members of this Planning Commission shall be resident electors of the Town of Summit qualified by knowledge or experience to act in matters pertaining to the development and administration of the Comprehensive Land Use Plan.

Section 3.05.03 Terms of Members.

The term of each member of the Planning Commission shall run current with the elected office.

Section 3.05.04 Compensation.

All members of the Planning Commission shall serve as such without compensation.

Section 3.05.05 Organizations, Rules, Staff, and Finances.

Such Planning Commission shall elect its chairman from among its members for a term of one year with eligibility for re-election, and may fill such other of its offices as it may create in a manner prescribed by the rules of such Commission. The Commission shall hold at least one regular meeting each month and shall adopt rules for transaction of its business and keep a record of its resolutions transactions, findings and determinations which shall be a public record. The Planning Commission may appoint such employees as it may deem necessary for its work whose appointment, promotion, demotion and removal shall be subject to the same provisions of law, including Civil Service Regulations as govern other corresponding civil employees of the municipality. The Commission may also contract with planners, engineers, architects and other consultants for such services as it may require. The expenditures of the Commission, exclusive of those made from funds received by it, shall be within the amount appropriated for the purpose by the Town Board which shall provide the funds, equipment and accommodations necessary for the commission's work.

**ARTICLE IV
SUPPLEMENTAL REGULATIONS**

CHAPTER 4.01. VISIBILITY AT INTERSECTIONS IN RESIDENTIAL DISTRICTS

On any corner lot in any zoning district, no planting or obstruction to vision between the range of three (3) and eight (8) feet in height measured from the center line of the road shall be placed or maintained within the triangular area formed by the intersection road right-of-way lines and a straight line connecting points on said road right-of-way line each of which is fifty (50) feet distance from the point of intersection (Clear View Triangle).

CHAPTER 4.02. FENCES

Section 4.02.01. Construction Limitations.

1. Notwithstanding other provisions of this ordinance, fences, walls, and hedges with a maximum height of not more than seven (7) feet high, may be erected on any part of a lot other than in the required front yard which shall be limited to a height of four (4) feet.
2. Fences, walls, and hedges which are more than thirty (30) percent solid shall abide by Chapter 4.01.
3. No person shall hereafter construct, erect or maintain or cause to be constructed, erected or maintained in the Town of Summit corporate limits any fences of any character or material no closer than one (1) foot to the sidewalk or property line. Exception: A fence/wall/hedge may be placed on the property line when the fence/wall/hedge is shared between property owners.
4. Approved fencing materials include stone, brick, wood, vinyl, and chain link. No electric or barbed wire shall be used in the construction of any fences within the PUD Planned Unit Development District, C1 Central Commercial District or in any residentially zoned districts or on the property lines separating commercial or industrial zoned property with residentially zoned property. Except that barbed wire may be used in connection with a security fence when the barbed wire is at least six (6) feet from the ground.
5. Hedges or other plantings which create a fence effect are subject to the same regulations as fences.
6. Fences that are adjacent to alleys shall be set back ten (10) feet from the street/boulevard right-of-way.
7. Prior to the issuance of a permit for a fence, abutting property owners shall be notified.
8. That side of the fence considered being the face (facing as applied to fence post) should face abutting property.

CHAPTER 4.03. ACCESSORY BUILDINGS

1. Accessory uses must be subordinate to principal use.
2. No accessory use shall be permitted in any district unless such use is specifically authorized by this Ordinance. No accessory use shall be deemed to be authorized by this Ordinance unless such use is in fact subordinate to and on the same zoning lot with the principal use in conjunction with which it is maintained.
3. No accessory building which is attached to or within (ten) 10 feet of a principal structure shall be erected in any required yard. Exceptions:
 - a. No separate accessory building shall be erected within three (3) feet of any side or rear lot line, except that when a garage is entered from an alley it shall not be located closer than twenty (20) feet to the alley line.
 - b. Accessory buildings may be located in a rear yard, but may not occupy more than thirty percent (30%) of a rear yard, and shall not be used for dwelling purposes.
4. No separate accessory building shall be erected within five (5) feet of any other building.
5. No accessory building may be used for residential dwelling purposes at any time.
6. Residential Districts.

Accessory uses shall be permitted for the principal permitted uses and conditional uses of the residential districts only in accordance with the provisions of the following table hereby adopted by reference and declared to be part of this Ordinance.

7. Commercial and Industrial Districts.

In any commercial district, any accessory use customarily incident to the principal permitted use or conditional use shall be permitted, except those uses specifically prohibited in the district.

Permitted uses:

Principal Use	Permitted Accessory Uses
Single-family dwellings; duplexes; townhouses and multiple-family dwellings; nursery schools and Day care centers.	<ol style="list-style-type: none">1. Private garages.<ol style="list-style-type: none">a. Attached garages shall be limited to maximum dimensions of thirty (30) feet by forty-eight (48) feet and conform to the design of the house.b. Unattached garages shall be limited to maximum sidewalls of twelve (12) feet; maximum dimensions of thirty (30) feet by forty-eight (48) feet; and a maximum of 4/12 roof pitch or to conform to the design of the house.c. Unattached garages shall have siding material of a type customarily used on site-constructed residence. Comparable to dwelling and be color coordinated to dwelling. Exception steel panel siding, not corrugated galvanized steel) may be used if consent of all adjacent landowners is obtained.2. Buildings or structures for customary residential storage purposes not over ten (10) feet in height and not exceeding one hundred fifty (150) square feet in gross floor area.3. Readily moveable sports, recreation, or outdoor cooking equipment.4. Permanent sports or recreational structures or facilities, such as tennis courts, swimming pools (with an approved security fence), barbeque pits, and similar improvements provided a site plan for such facility is approved.5. Home occupations but only as defined herein.6. Non-commercial greenhouses provided that greenhouses over 100 square feet in floor area must have an approved site plan.7. Off-street parking and storage of vehicles, but only as provided in Chapter 4.05 of this Ordinance.
Churches, Convents and Monasteries	<ol style="list-style-type: none">1. All customarily incidental uses reasonably necessary to allow the free exercise of religion, but not to include commercial use.
All conditional uses	<ol style="list-style-type: none">1. All customarily incidental uses reasonably necessary to promote the primary purposes of the principal use, provided that such use must be specifically authorized by the Board of Adjustment for the principal use
All other items	<ol style="list-style-type: none">1. No accessory uses permitted.

CHAPTER 4.04. SIGNS AND OUTDOOR ADVERTISING

Section 4.04.01. On- and Off-Site Signs.

1. No private sign shall be erected or maintained which:
 - a. Creates a hazard due to collapse, fire, collision, decay or abandonment; or
 - b. Creates traffic hazards, by either:
 - i. Confusing or distracting motorists, or
 - ii. Impairing the driver's ability to see pedestrians, obstacles or other vehicles, or
 - iii. Impairing the driver's ability to see and interpret any official traffic sign, signal or device; or
 - iv. Creates a nuisance to persons using a public right-of-way; or

- v. Constitutes a nuisance to occupancy of adjacent and contiguous property by its brightness, size, height, or movement.
2. Signs shall be permitted in all zoning districts, subject to the following provisions:
- a. Wall signs may be located anywhere on the wall of a building.
 - b. Freestanding signs shall not project over public property.
 - c. Freestanding signs shall not be erected adjacent to a corner of two intersecting streets, unless such signs are constructed to not obstruct the view of said intersection.
 - d. Each sign in the incorporated limits of Summit shall at least meet the standards established by the South Dakota Department of Transportation.
 - e. Other than utility fixtures or holiday decorations, no signs, awnings, or display shall be suspended, hanged or placed so that the same shall hang over any part of a street or sidewalk, used for vehicular or pedestrian travel unless a written application for a permit is made to the Administrative Official and the said Official grants a permit therefore.
 - f. The Administrative Official shall take into consideration factors that would make the proposed structure likely to endanger the property or personal safety of passersby traveling the streets or sidewalks in question, and whether or not such structure complies with the 2003 edition of the International Building Code as published by the International Code Council, Incorporated relating to outdoor advertising.

CHAPTER 4.05. PARKING

Section 4.05.01. Parking, Storage, or Use of Major Recreational Equipment

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

Section 4.05.02. Parking and Storage of Certain Vehicles.

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

Section 4.05.03. Off-Street Parking Requirements.

1. Single-Family Dwellings: Off-street parking for two (2) vehicles shall be provided for every dwelling unit exclusive of required yards.
2. Hospitals, Convalescent or Nursing Homes: One (1) parking space for each four (4) beds for which accommodations are offered.
3. Multiple-Family Dwellings: Two (2) parking spaces for each dwelling unit except housing for the elderly projects which shall provide one (1) parking space for each dwelling unit exclusive of required yards.

CHAPTER 4.06. STRUCTURES TO HAVE ACCESS

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

CHAPTER 4.07. ADULT USES

In the development and execution of these regulations, it is recognized that there are some uses which, because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances thereby having a deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. These special regulations are itemized in this section. The primary control or regulation is for the purpose of preventing a concentration of these uses in any one area.

Section 4.07.01 Setbacks.

1. None of the following uses may be established, operated or maintained within one thousand (1,000) feet of a residence, a church, a school meeting all the requirements of the Compulsory Education Laws of the State of South Dakota, or a public park.
 - a. Adult bookstore.
 - b. Adult motion picture theater.
 - c. Adult photo studio.
 - d. Adult Entertainment Facility.
 - e. Any use which has as a part of its operation an adult use component including, but not limited to, a restaurant or eating place, a bar, lounge or tavern.
 - f. Any use intended to provide adult amusement or entertainment.

2. Not more than two of the following uses may be established, operated or maintained within one thousand (1,000) feet of each other:
 - a. Adult bookstore.
 - b. Adult motion picture theater.
 - c. Adult photo studio.
 - d. Adult entertainment facility.
 - e. Any use which has as a part of its operation an adult use component including, but not limited to, a restaurant or eating place, a bar, lounge or tavern.
 - f. Any use intended to provide adult amusement or entertainment.
 - g. A bar.
 - h. A liquor store.
3. The 1,000-foot restriction provided for in 4.07.01.2 above may be waived and a conditional use permit issued upon proper application if the Board of Adjustment finds:
 - a. That the proposed use will not be contrary to the public interest or injurious to nearby properties and that the spirit and intent of these regulations will be observed.
 - b. That the proposed use will not enlarge or encourage the development of a 'skid row' area.
 - c. That all applicable regulations will be observed.

Section 4.07.02 Required License.

It shall be unlawful for any person to engage in the business of operating an adult use in the Town of Summit without first having obtained a license from the Town Board.

Section 4.07.03 Application; Standards for Issuance.

1. Application for an adult use license shall be made in writing and shall state the following:
 - a. The name, address, telephone number and age of the applicant and the registered agent of the applicant if the applicant is a corporation.
 - b. The location of the adult use business.
 - c. The exact nature of the adult use to be conducted and of the proposed place of business and the facilities related thereto.
 - d. A statement by the applicant that he is familiar with the provisions of this article and is in compliance with them.

- e. A statement of whether the business will be conducted by a manager and, if so, the name, address, telephone number, and age of each such manager.
 - f. A statement that no manager or principal operating the business has been convicted of any offense of prostitution, soliciting for prostitution, or obscenity or public indecency as defined in the South Dakota Compiled Statutes within the last two (2) years, and that the applicant has not had any license for an adult use in any other community revoked within the last two (2) years.
2. Within fifteen (15) days after receipt of an application for an adult use license, the Town Board shall investigate the information contained in the application and shall determine the following:
 - a. That the premises designated by the applicant as the location of the business are in full compliance with all applicable ordinances of the Town, including zoning ordinances.
 - b. That the premises and each manager and employee comply with the provisions of Section 4.07.03.1 as such provisions apply to them.
 - c. That the applicant, each manager and each employee are over twenty-one (21) years of age.
 - d. That no manager or principal operator of the business has been convicted of any offense of prostitution, solicitation for prostitution, or obscenity or public indecency, as defined in the South Dakota Compiled Statutes within the last two (2) years, and that the applicant has not had any license for an adult use revoked within the last two (2) years.
 3. If the investigation shows the compliance of the applicant for an adult use license, the premises upon which the business is to be conducted and each manager and employee, if applicable, with each of the requirements established in subsections (1) and (2) of this section, and with the conditions and regulations set forth in Section 4.07.03 within fifteen (15) days after completion of such investigation, the Town Board shall issue a license, and upon payment by the applicant of the license fee required under this article, the license shall be issued.
 4. If the investigation shows that the applicant for an adult use license, the premises on which the business is to be conducted, or the managers and employees, if applicable, do not comply with each of the requirements established in subsection (1) of this section, and with the conditions and regulations set forth in Section 4.07.04 within fifteen (15) days after completion of such investigation, the Town Board shall notify the applicant in writing that the license has been denied. Such denial shall be the final administrative action of the Town with respect to the license application, and shall be subject to the immediate appeal by the applicant to the circuit court.

Section 4.07.04. Conditions & Regulations Governing Operation; Violation; Penalty.

1. The following regulations shall govern and control the business of operating an adult use in the Town of Summit:
 - a. No person under twenty-one (21) years of age shall be allowed on the licensed premises.

- b. At all times during the hours of operation there shall be present a manager or other employee of the licensee who shall be not less than twenty-one (21) years of age.
 - c. Upon a change of any manager conducting business for the licensee, the licensee shall, within ten regular business days, give the Town Board written notice of such change by actual delivery or by registered or certified mail. The licensee shall, thereafter, as promptly as practicable, but in any event within five (5) regular business days, provide the information concerning the new manager which is required in Section 4.07.03.
 - d. No adult use shall be located on premises for which a license to sell alcoholic liquor has been issued, and no alcoholic liquor shall be permitted on such premises.
 - e. No adult use shall be permitted unless the premises on which such business is located complies with the requirements of the zoning ordinance.
 - f. No licensee or manager under the provisions of this article shall knowingly permit any person to remain in or upon licensed premises who commits any act of public indecency or obscenity as defined in the South Dakota Compiled Statutes.
 - g. No licensee or manager under the provisions of this article shall permit any act of prostitution, solicitation for prostitution or patronization of a prostitute on the licensed premises.
 - h. No sign shall be posted on the licensed premises which depicts, displays or refers to specified anatomical areas or specified sexual activities, as defined in this article.
2. In addition to the requirements established in Section 4.07.04.1, the following regulations shall govern and control the operation of an adult bookstore which offers any films or videotapes for viewing on premises by use of motion picture devices or other such operations means:
- a. All viewing areas, which shall be defined as the area where a patron or customer would ordinarily be positioned while watching a film or viewing device, shall be visible from a continuous main aisle or public room and shall not be obscured by any curtain, door, wall or other enclosure.
 - b. There shall be no aperture whatsoever in any wall or partition between viewing areas.
 - c. Each viewing area shall be lighted at a minimum level of ten (10) foot candles in all parts thereof.
3. In addition to the requirements established in Section (1) of this section, the following regulations shall govern and control the operation of an adult entertainment facility:
- a. All performers shall be at least twenty-one (21) years of age.
 - b. All performances, exhibitions or displays shall take place on a platform raised at least two feet from the level of the floor, and located at least ten (10) feet from any patron.
 - c. No performer shall fondle or caress any patron or other performer and no patron shall fondle or caress any performer.

- d. No patron shall be permitted to pay or give any gratuity to any performer, and no performer shall solicit any pay or gratuity from any patron.
4. It shall be unlawful for any person licensed to engage in the business of operating an adult use within the Town to fail to comply with the conditions and regulations set forth in subsections 4.07.03 and 4.07.04 of this section as they are applicable to the licensed business, or to suffer or permit noncompliance with such conditions and regulations on or within the licensed premises. In this regard, any act or omission of an employee shall be deemed the act or omission of the owner if such act or omission occurred either with the authorization, knowledge or approval of the owner or as a result of the owner's negligent failure to supervise the employee's conduct. All conduct occurring while on the premises shall be presumed to be the responsibility of the owner.
5. Any person convicted of a violation of this section shall be subject to a fine pursuant to Section 1.02.02 of this Ordinance.

Section 4.07.05 Suspension or Revocation.

Nothing in the terms of this article shall preclude the right of the Town Board to suspend or revoke the license of the licensee, as follows:

1. The Town Board may temporarily suspend any license issued under the terms of this article when he has reason to believe that the continued operation of a particular licensed premises will immediately threaten the welfare of the community or create an imminent danger of violation of applicable law. In such case, he may, upon the issuance of a written order stating the reason for such determination, and without notice or hearing, order the licensed premises closed for not more than seven (7) days; provided, that the licensee shall be given an opportunity to be heard in a public hearing during the seven (7)-day period, and further provided that if such licensee shall also be engaged in the conduct of other business on the licensed premises, such order shall not be applicable to such other businesses.
2. The Town Board may suspend or revoke any license issued under the terms of this article upon ten (10) days notice to the licensee of the time and place of a public hearing, and a public hearing at which the licensee may appear and present evidence, if the Town Board determines upon such hearing that the licensee has failed or refused to comply with the terms of this article, has failed or refused to comply with other law applicable to the business of operating an adult use, has knowingly permitted the failure of any manager or employee on the premises to comply with the terms of this article or with other law applicable to the business of operating an adult use, has knowingly furnished false or misleading information on any application required for any license under this section or has suffered or caused another to furnish or withhold such information on his behalf, or has been convicted by a court of competent jurisdiction of a violation of any provision of this section.

CHAPTER 4.08. YARDS

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

Section 4.08.01. Yards, Reduction in Size.

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

Section 4.08.02. Additional Yard Requirements.

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

1. Except in the "C1" District, a corner lot must have a front yard on both streets. Exception: All buildings located on lots adjacent to a residential district shall observe a yard requirement equivalent to the minimum yard requirements of the residential district on the side or sides adjacent
2. On through lots and reversed frontage lots, a front yard must be provided on both streets.
3. Required front yards shall be devoted entirely to landscaped area except for the necessary paving or driveways and sidewalks to reach parking or loading areas in the side or rear yard.

Section 4.08.03. Exceptions to Yard Requirements.

The following exceptions may be made to the yard requirements:

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

CHAPTER 4.09. ERECTION OF MORE THAN ONE PRINCIPAL STRUCTURE ON A LOT

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

CHAPTER 4.10. EXCEPTIONS TO HEIGHT REGULATIONS

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

CHAPTER 4.11. PRIVATE WASTEWATER TREATMENT SYSTEMS (SEPTIC TANKS)

All existing septic tanks shall be considered nonconforming uses. Any new construction or substantial improvement must be connected to the Town's sanitary sewer system.

CHAPTER 4.12. MANUFACTURED HOME PROVISIONS

Section 4.12.01. Modular Homes.

1. Modular homes shall meet the following regulations.
 - a. Modular homes shall meet or exceed Uniform Building Codes.
 - b. Modular homes will include all off-site constructed homes, which may be transported to the site in one or more sections.
 - c. Modular homes shall have more than one thousand (1,000) square feet in ranch style and eight hundred fifty (850) square feet split and be placed on a permanent foundation. The foundation shall be to a depth below the frost line.
 - d. Modular homes shall have a minimum of a 3/12 roof pitch.
 - e. Have siding material of a type customarily used on site-constructed residences.
 - f. Have roofing material of a type customarily used on site-constructed residences.

Section 4.12.02. Type I and Type II Manufactured Homes.

1. For the purpose of this ordinance, manufactured homes will be regulated by type. Two types of homes are defined under these regulations.
 - a. Type I manufactured home shall:
 - 1) Have more than eleven hundred (1,100) square feet of occupied space in a double-section or larger multi-section unit.
 - 2) The running gear and hitch have been removed.
 - 3) Has been anchored to a foundation and permanent footing.
 - 4) The foundation shall be (a) an approved wood basement constructed of 2 x 6 framework and treated with water resistant materials; or (b) a foundation shall be constructed with eight (8) inches poured concrete or concrete block.
 - 5) The footing to be a minimum of eight (8) inches thick by sixteen (16) inches wide poured concrete with top of footing to be six (6) inches below grade.
 - 6) Prior to placement of a home on the foundation, it must be inspected and approved by the Administrative Official.

- 7) Have a gabled roof with a pitch of at least 1/12 feet.
- 8) Have siding material of a type customarily used on site-constructed residences.
- 9) Have roofing material of a type customarily used on site-constructed residences.
- 10) The age of the manufactured house may not exceed ten (10) years from the date of manufacture.

b. Type II manufactured home shall:

- 1) Have more than seven hundred (700) square feet of occupied space in a single, double, expando or multi-section unit.
- 2) Utilize a permanent perimeter enclosure in accordance with approved installation standards, as specified in Section 4.12.02.2.a.
- 3) Be anchored to the ground, in accordance with manufacturer's specifications, or as prescribed by the TR-75, issued June 1972, by the U.S. Department of Defense or by the ANTI/NFPA 501A Standards.
- 4) Have siding material of a type customarily used on site-constructed residences.
- 5) Have roofing material of a type customarily used on site-constructed residences.
- 6) The age of the manufactured house may not exceed ten (10) years from the date of manufacture.
- 7) Be placed onto a support system, in accordance with approved installation standards, as specified in Section 4.12.02.2.c

2. Installation Standards

a. Permanent Perimeter Enclosure as Required for Type I and II Manufactured Homes

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

b. Foundation Siding/Skirting

All manufactured homes without a permanent perimeter (Type II) enclosure shall have an approved foundation siding/skirting enclosing the entire perimeter of the home.

c. Support System

- 1) All HUD-Code manufactured homes of the Type I classification shall be installed with load bearing foundations in conformance with the manufacturer's installation specifications.

- 2) Type II manufactured homes not placed on a permanent foundation shall be installed on a support system in conformance with the manufacturer's installation specifications or with the support systems regulations in the ANTI/NFPA 501A 1977 installation standards.

3. Nonconforming Homes

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

4. Replacement of Nonconforming Homes. See 2.02.03.6

5. Structural Alteration

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

6. Variance from Maximum Age Requirement

Type I and Type II manufactured homes may receive a variance from the maximum age requirement (Chapter 4.12). The Board of Adjustment may grant a variance if the applicant requesting the placement of the manufactured home meets the following requirements:

- a. The applicant shall provide a photograph of the manufactured home's exterior and interior.
- b. That it shall have been shown to the satisfaction of the Board of Adjustment that the said manufactured home complies with the gas, plumbing, electrical, and construction requirements of the Town of Summit.
- c. The applicant shall obtain, and present to the Board of Adjustment, the written consent of sixty-six (66) percent of the property owners owning property immediately adjacent (excluding streets and alleys) to the proposed building site.

CHAPTER 4.13. PERMANENT FOUNDATIONS REQUIRED FOR DWELLINGS

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

CHAPTER 4.14. UTILITY EASEMENTS

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

CHAPTER 4.15. MOVED BUILDINGS

1. It shall be unlawful to move any house or other building onto or from any lot or to any new location within or outside the Town unless and until a permit to do so has been obtained from the Administrative Official. No permit shall be issued until the following requirements are met.
 - a. The fee for said permit as prescribed in Article III, Section 3.01.03, shall have been paid.
 - b. That it shall have been shown to the satisfaction of the Administrative Official that the said house or other building complies with the gas, plumbing, electrical and construction requirements of the Town of Summit.
 - c. That the work is to be completed within twelve (12) months after the permit has been issued by the Administrative Official.
 - d. If a permit to move a building from a lot is granted, the applicant shall agree to restore the lot to a buildable condition. This may include but is not limited to concrete basement removal, collapsing of the basement walls, earthwork, landscaping and/or reseeded.
 - e. The applicant may also be required to file with the Finance Officer a sufficient bond conditioned so that the applicant will indemnify the Town and any public utility for any damage done to any property, street, alley or public grounds and to insure that any site reclamation work is completed. No building shall be moved other than during the period from daylight to sundown. Before any permit is granted under this section, the applicant must furnish proof that all taxes legally assessed against the property have been paid.
 - f. If a building or structure is to be moved onto any lot within the Town, the Administrative Official shall have the power to deny the granting of a moving permit on the grounds that the intended use of the structure or location thereof is contrary to the provisions of this chapter.
 - g. Any building which is not newly constructed to be used for first occupancy, shall also meet the following minimum requirements to obtain a permit.
 - i. The written consent of sixty-six (66) percent of the property owners owning property immediately adjacent (excluding streets and alleys) to the proposed building site.

CHAPTER 4.16. SCREENING

Where any "C1", "HC", "I" or "PUD" land use is adjacent to any Residential Zone, that use (building, parking or storage) shall be appropriately screened from the Residential Use District by plantings or fencing, except where planting or fencing may be in conflict with Chapter 4.01 or Chapter 4.02.

CHAPTER 4.17. REFUSE

In all zoning districts, refuse (rubbish, garbage, trash, waste or debris) shall be kept within a complete enclosed building or specially designed closed container made for such purpose. Owners of vacant lots shall be responsible for keeping their property free of trash.

CHAPTER 4.18. WIND ENERGY SYSTEM (WES) REQUIREMENTS.

Section 4.18.01. Applicability.

1. The requirements of these regulations shall apply to all WES facilities except private facilities with a single tower height of less than seventy-five (75) feet and used primarily for on-site consumption of power.

Section 4.18.02. Federal And State Requirements.

1. All WESs shall meet or exceed standards and regulations of the Federal Aviation and South Dakota State Statutes and any other agency of federal or state government with the authority to regulate WESs.

Section 4.18.03. General Provisions.

1. Mitigation Measures
 - a. Site Clearance. The permittees shall disturb or clear the site only to the extent necessary to assure suitable access for construction, safe operation and maintenance of the WES.
 - b. Topsoil Protection. The permittees shall implement measures to protect and segregate topsoil from subsoil in cultivated lands unless otherwise negotiated with the affected landowner.
 - c. Compaction. The permittees shall implement measures to minimize compaction of all lands during all phases of the project's life and shall confine compaction to as small an area as practicable.
 - d. Livestock Protection. The permittees shall take precautions to protect livestock during all phases of the project life.
 - e. Fences. The permittees shall promptly replace or repair all fences and gates removed or damaged during all phases of the project's life unless otherwise negotiated with the affected landowner.

f. Roads

- i. Public Roads. Prior to commencement of construction, the permittees shall identify all Town, state, county or township "haul roads" that will be used for the WES project and shall notify the Town, state, county or township governing body having jurisdiction over the roads to determine if the haul roads identified are acceptable. The governmental body shall be given adequate time to inspect the haul roads prior to use of these haul roads. Where practical, existing roadways shall be used for all activities associated with the WES. Where practical, all-weather roads shall be used to deliver cement, turbines, towers, assemble nacelles and all other heavy components to and from the turbine sites.
 - ii. The permittees shall, prior to the use of approved haul roads, make satisfactory arrangements with the appropriate Town, state, county or township governmental body having jurisdiction over approved haul roads for construction of the WES for the maintenance and repair of the haul roads that will be subject to extra wear and tear due to transportation of equipment and WES components. The permittees shall notify the Town of such arrangements upon request of the Town.
 - iii. Turbine Access Roads. Construction of turbine access roads shall be minimized. Access roads shall be low profile roads so that farming equipment can cross them and shall be covered with Class 5 gravel or similar material. When access roads are constructed across streams and drainageways, the access roads shall be designed in a manner so runoff from the upper portions of the watershed can readily flow to the lower portion of the watershed.
 - iv. Private Roads. The permittees shall promptly repair private roads or lanes damaged when moving equipment or when obtaining access to the site, unless otherwise negotiated with the affected landowner.
 - v. Control of Dust. The permittees shall utilize all reasonable measures and practices of construction to control dust.
- g. Soil Erosion and Sediment control Plan. The permittees shall develop a Soil Erosion and Sediment Control Plan prior to construction and submit the plan to the Town. The Soil Erosion and Sediment Control Plan shall address the erosion control measures for each project phase, and shall at a minimum identify plans for grading, construction and drainage of roads and turbine pads; necessary soil information; detailed design features to maintain downstream water quality; a comprehensive revegetation plan to maintain and ensure adequate erosion control and slope stability and to restore the site after temporary project activities; and measures to minimize the area of surface disturbance. Other practices shall include containing excavated material, protecting exposed soil, stabilizing restored material and removal of silt fences or barriers when the area is stabilized. The plan shall identify methods for disposal or storage of excavated material.
2. Setbacks. Wind turbines shall meet the following minimum spacing requirements.
- a. Distance from existing off-site residences, business and public buildings shall be one thousand (1,000) feet. Distance from on-site or lessor's residence shall be five hundred (500) feet.

- b. Distance from centerline of public roads shall be two (2) times the height of the wind turbines, measured from the ground surface to the tip of the blade when in a fully vertical position.
 - c. Distance from any property line shall be two (2) times the height of the wind turbine, measured from the ground surface to the tip of the blade when in a fully vertical position unless wind easement has been obtained from adjoining property owner.
3. Electromagnetic Interference. The permittees shall not operate the WES so as to cause microwave, television, radio, or navigation interference contrary to Federal Communications Commission (FCC) regulations or other law. In the event such interference is caused by the WES or its operation, the permittees shall take the measures necessary to correct the problem.
 4. Lighting. Towers shall be marked as required by the Federal Aviation Administration (FAA). There shall be no lights on the towers other than what is required by the FAA. This restriction shall not apply to infrared heating devices used to protect the monitoring equipment.
 5. Turbine Spacing. The turbines shall be spaced no closer than three (3) rotor diameters (RD) within a string and ten (10) RDs between strings. If required during final micro siting of the turbines to account for topographic conditions, up to 10 percent of the towers may be sited closer than the above spacing but the permittees shall minimize the need to site the turbines closer.
 6. Footprint Minimization. The permittees shall design and construct the WES so as to minimize the amount of land that is impacted by the WES. Associated facilities in the vicinity of turbines such as electrical/electronic boxes, transformers and monitoring systems shall to the greatest extent feasible be mounted on the foundations used for turbine towers or inside the towers unless otherwise negotiated with the affected landowner.
 7. Electrical Cables. The permittees shall place electrical lines, known as collectors, and communication cables underground when located on private property. Collectors and cables shall also be placed within or immediately adjacent to the land necessary for turbine access roads unless otherwise negotiated with the affected landowner. This paragraph does not apply to feeder lines.
 8. Feeder Lines. The permittees shall place overhead electric lines, known as feeders, on public rights-of-way if a public right-of-way exists. Changes in routes may be made as long as feeders remain on public rights-of-way and approval has been obtained from the governmental unit responsible for the affected right-of-way. If no public right-of-way exists, the permittees may place feeders on private property. When placing feeders on private property, the permittees shall place the feeder in accordance with the easement negotiated with the affected landowner. The permittees shall submit the site plan and engineering drawings for the feeder lines before commencing construction.

9. Decommissioning/Restoration/Abandonment

- a. Decommissioning Plan. Within one hundred twenty (120) days of completion of construction, the permittees shall submit to the Town a decommissioning plan describing the manner in which the permittees anticipate decommissioning the project in accordance with the requirements of paragraph (b) below. The plan shall include a description of the manner in which the permittees will ensure that it has the financial capability to carry out these restoration requirements when they go into effect. The permittees shall ensure that it carries out its obligation to provide for the resources necessary to fulfill these requirements. The Town may at any time request the permittees to file a report with the Town describing how the permittees are fulfilling this obligation.
- b. Site Restoration. Upon expiration of this permit, or upon earlier termination of operation of the WES, the permittees shall have the obligation to dismantle and remove from the site all towers, turbine generators, transformers, overhead and underground cables, foundations, buildings and ancillary equipment to a depth of four feet. To the extent possible the permittees shall restore and reclaim the site to its pre-project topography and topsoil quality. All access roads shall be removed unless written approval is given by the affected landowner requesting that one or more roads, or portions thereof, be retained. Any agreement for removal to a lesser depth or for no removal shall be recorded with the Town and shall show the locations of all such foundations. All such agreements between the permittees and the affected landowner shall be submitted to the Town prior to completion of restoration activities. The site shall be restored in accordance with the requirements of this condition within eighteen months after expiration.
- c. Abandoned Turbines. The permittees shall advise the Town of any turbines that are abandoned prior to termination of operation of the WES. The Town may require the permittees to decommission any abandoned turbine.

10. Height from Ground Surface. The minimum height of blade tips, measured from ground surface when a blade is in fully vertical position, shall be twenty-five (25) feet.

11. Towers.

- a. Color and Finish. The finish of the exterior surface shall be non-reflective and non-glass.
- b. All towers shall be singular tubular design.

12. Noise. Noise level shall not exceed 50 dBA, including constructive interference effects at the property line of existing off-site residences, businesses, and public buildings.

13. Permit Expiration. The permit shall become void if no substantial construction has been completed within three (3) years of issuance.

14. Required Information for Permit.

- a. Boundaries of the site proposed for WES and associated facilities on United States Geological Survey Map or other map as appropriate.

- b. Map of easements for WES.
- c. Map of occupied residential structures, businesses and public buildings.
- d. Map of sites for WES, access roads and utility lines.
- e. Location of other WES in general area.
- f. Project schedule.
- g. Mitigation measures.

ARTICLE V DEFINITIONS

CHAPTER 5.01. GENERAL TERMS

For the purpose of this ordinance, certain terms and words are hereby defined. Words used in the present tense shall include the future; the singular number shall include the plural and the plural the singular; the word "building" shall include the word "structure," and the word "shall" is mandatory and 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. Any word not herein defined shall be as defined in any recognized Standard English dictionary.

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

Adult Bookstores. An establishment having, as a substantial portion of its stock in trade, books, magazines, films or videotapes for sale or viewing on the premises by use of motion picture devices or other coin-operated means, and other periodicals which are distinguished by their emphasis on matter depicting, describing or relating to specified Sexual Activities or Specified Anatomical Areas as such terms are defined in this section, or an establishment with a segment or section devoted to the sale or display of such material. Adult bookstores may alternatively or in conjunction with the above stock in trade sell undergarments and other clothing designed for the display of Specified Anatomical Areas or for the enhancement of Specified Sexual Activities. Further, an adult bookstore may alternatively or in conjunction with the above stock in trade sell prosthetic devices, dolls, candles, vibrators and other objects for sexual gratification which take the form of Specified Anatomical Areas and for the purpose of enhancing Specified Sexual Activities.

Adult Entertainment Facility. Means an establishment offering to its patrons, as entertainment, any exhibition or display or any theatrical or other live performances which include topless or go-go dancers, exotic dancers, strippers, male or female impersonators, or similar entertainers, or any persons singing, reading, posing, modeling, or serving food or beverages, where the exhibition, performance, display or dance is intended to sexually arouse the entertainer or the patrons, or where the attire of persons involved is such as to expose specified anatomical areas, as defined in this section.

Adult Motion Picture Theater. An enclosed building, regardless of its seating capacity which is used to present for public view on the premises, films, movies, previews, trailers or advertisements which are distinguished by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in this section.

Adult Photo Studio. An establishment which, on payment of a fee, provides photographic equipment and/or models for the purpose of photographing "specified anatomical areas", as herein defined.

Adult Use. The term "adult use" shall include adult entertainment facility, adult bookstores, adult motion picture theaters, and adult photo studios as defined in this section.

Airport. A place where aircraft can land and takeoff, usually equipped with hangers, facilities for refueling and repair, and various accommodations for passengers, including heliports.

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

Bar/lounge. An establishment that is licensed to sell alcoholic beverages by the drink.

Basement. A Basement has more than one-half (1/2) of its height below grade. A basement is counted as a story for the purpose of height regulations if subdivided and used for dwelling purposes.

Bed and Breakfast (B & B's). A private single-family residence, which is used to provide, limited meals and temporary accommodations for a charge to the public. Such establishments should be located where there will be minimal impact on surrounding residential properties and should comply with the following conditions:

1. B & B's shall be limited to residential structures with an overall minimum of one thousand eight hundred (1,800) square feet of floor. Preference will be given to structures with historic or other unique qualities.
2. They shall be in compliance with applicable state laws including registration with the South Dakota Department of Health, maintaining a guest list, and providing a smoke detector in each sleeping room.
3. Accessory use signs shall be based on similar requirements for a home occupation permit and shall not be more than one (1) square foot in area.
4. Such uses shall be an incidental use with an owner occupied principal dwelling structure provided that not more than four bedrooms in such dwelling structure shall be used for such purpose.
5. Off-street parking requirements shall be one space per guestroom and shall be in addition to parking requirements for the principal use. Off-street parking shall not be located in a required front or side yard and screening shall be required when adjacent to residentially used property.
6. The length of stay shall not exceed fourteen (14) days during any one hundred twenty-- (120) day consecutive period.
7. Meals shall be limited to breakfast, which is prepared in a common facility (household kitchen). Meals may be served only to overnight registered guests and cooking is not permitted in the sleeping rooms.
8. The building shall meet all building codes and zoning requirements. A site plan showing the location of guest parking spaces and floor plan showing a location of the sleeping rooms, lavatories, and bathing facilities, and kitchen shall be submitted with application.

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

Buildable Area. That portion of the lot that can be occupied by the principal use, thus excluding the front, rear and side yards.

Building. The word “building” includes the word “structure” and is a structure which is entirely separated from any other structure by space or by walls in which there are no communicating doors or windows or similar openings.

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

Building Line. Is a line on the lot running parallel to the required horizontal distance from the nearest property line.

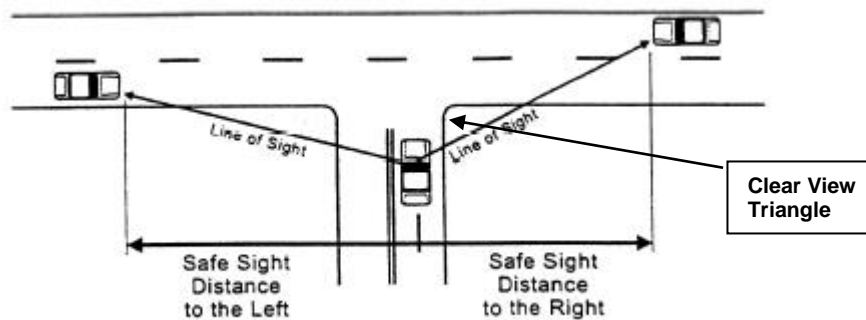
Building, Principal. A non-accessory building in which is conducted the principal use of the lot on which it is located.

Campground. Shall mean a plot of ground for public use upon which two or more campsites are located, established, maintained, advertised, or held out to the public, to be a place where camping units can be located and occupied as temporary living quarters. Campgrounds for tent trailers and recreational vehicles shall be sited with consideration for access to the property. The campground shall be designed to minimize the impact from adjacent major thoroughfares.

Car Wash. A facility used to clean the exterior, and sometimes the interior, of automobiles.

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, together with all accessory buildings and uses customarily associated with such primary purpose. Includes synagogue, temple, mosque, or other such place for worship and religious activities

Clear View Triangle. A triangular-shaped portion of land established at street intersections and ingress/egress points in which there are restrictions on things erected, placed or planted which would limit or obstruct the sight distance of motorists entering or leaving the intersection (see illustration below).



Commercial Storage, Mini-Storage Facilities. Individual locker storage facilities (frequently with some accessory outdoor vehicle/boat storage) primarily for the benefit of residential or small business users in which are kept household items, business records, vehicles, recreational equipment, etc.

Comprehensive Plan. The adopted long-range plan intended to guide the growth and development of The Town of Summit.

Conditional Use. A use that would not be appropriate generally or without restriction throughout the zoning district by which it is controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted by the Board of Adjustment when specific provision is made in this ordinance. Conditional uses are subject to evaluation and approval by the Board of Adjustment and are administrative in nature.

Contractor Shops And Storage Yards. Those facilities to include structures and land areas where the outdoor storage of equipment and supplies used for various types of off-site construction are stored. Examples of equipment and supplies include but are not limited to the following – road construction, building construction, gravel operations, and general contracting services.

Convenience Store. Any retail establishment offering for sale pre-packaged food products, household items, and other goods commonly associated with the same, at which a customer typically purchases only a few items during a short visit.

Day Care Center. Any operation which provides child care services.

Day Care Center, Commercial. A day care center which is operated in a structure which is not a dwelling unit. To be considered a Day Care Center under these regulations, such operation must be licensed by the State of South Dakota.

Density. The number of families, individuals, dwelling units, or housing structures per unit of land.

Development. The carrying out of any surface or structure construction, reconstruction or alteration of land use or intensity of use.

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

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

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

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

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

Engineer. Means any engineer licensed by the State of South Dakota.

Family. One (1) or more persons related by blood, marriage, or adoption occupying a dwelling unit as a single household unit. A family shall not include more than three (3) adults who are unrelated by blood or law. This definition shall not include foster families as regulated by the State of South Dakota.

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

Feedlot. A feedlot is a lot, yard, corral, building or other area where animals have been, are, or will be stabled or confined for a total of forty-five (45) days or more during any twelve (12) month period, and where crops, vegetation, forage growth, or post harvest residues are not sustained over any portion of the lot or facility.

Fence. A structure used as a boundary, screen, separation, means of privacy, protection or confinement, and is constructed of wood, plastic, metal, wire mesh, masonry or other similar material and is used as a barrier of some sort.

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

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

Garage, Private. An accessory building used for the storage of not more than four (4) vehicles owned and used by the occupant of the building to which it is necessary. Vehicles include cars, pickups, and boats, but not commercial vehicles.

Garage, Public. A building or portion thereof, other than a private or storage garage, designed or used for equipping, servicing, repairing, hiring, selling, storing, or parking motor-driven vehicles. The term repairing shall not include an automobile body repair shop nor the rebuilding, dismantling, or storage of wrecked or junked vehicles.

Garage, Storage. Any building or premises, used for housing only motor-driven vehicles, other than trucks and commercial vehicles.

Grade. The finished grade of premises improved by a building or structure is the average natural elevation or slope of the surface of the ground within fifty (50) feet of the building or structure.

Greenhouse. A building whose roof and sides are made largely of glass regulated for the cultivation of delicate or out-of-season plants for subsequent sale or for personal enjoyment.

Group Home. A supervised living or counseling arrangement in a family home context providing for the twenty-four (24) hour care of children or adults.

Home Occupation. A business, profession, occupation, or trade conducted for profit and located entirely within a dwelling, which use is accessory, incidental, and secondary to the use of the dwelling for residential purposes and does not change the essential residential character or appearance of such dwelling provided that:

1. No person other than members of the family residing on the premises shall be engaged in such occupation.
2. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinated to its use for residential purposes by its occupants, and not more than twenty-five percent (25%) of the floor area of the dwelling unit shall be used in the conduct of the home occupation.
3. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign, not exceeding one (1) square foot in area, non-illuminated, and mounted flat against the wall of the principal building.
4. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.
5. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood and any need for parking generated by the conduct of such home occupation shall be met off the street.
6. Notwithstanding the preceding standards, any operation which provides care for more than twelve (12) children in a 24-hour period shall not be considered a home occupation.

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

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

Junk Yard. An area of land with or without buildings used for, or occupied by, a deposit, collection, or the storage outside of a completely enclosed building, or used and/or discarded materials such as waste paper, rags or scrap metal, used building materials, home furnishings, machinery, vehicles, or parts thereof, with or without the dismantling, processing, salvage, sale, or other use or disposition of the same.

Kennel. Any premise or portion thereon where more than three (3) adult dogs, cats, or other household pets are raised, trained, boarded, harbored, or kept for remuneration. Veterinary clinics, animal hospitals and animal shelters are specifically excluded.

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

Lot. A parcel or tract of land having specific boundaries and which has been recorded in the Register of Deeds office. A lot shall include only one (1) principal building together with its accessory buildings; open spaces and parking spaces required by these regulations and shall have its principal frontage upon a road or other approved access.

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

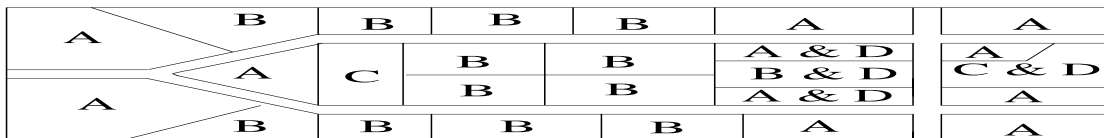
Lot Line. A line of record bounding a lot which divides one lot from another lot or from a public or private street or any other public space.

Lot Measurements.

1. **Depth:** The average mean horizontal distance between the front and rear lot lines.
2. **Width:** The width of a lot at the front yard line.
3. **Area:** The lot area is the area of a horizontal plane in square feet or acres within the lot line.

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

Lot Types. See figure below:



- A. **Corner Lot**, defined as a lot located at the intersection of two or more streets. A lot abutting on a curved street or streets 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 135 degrees.
- B. **Interior Lot**, defined as a lot other than a corner lot with only one frontage on a street.
- C. **Through Lot**, defined as a lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots.
- D. **Reversed Frontage Lot**, defined as a lot on which the frontage is at right angles or approximately right angles (interior angle less than 135 degrees) to the general pattern in the area. A reversed frontage lot may also be a corner lot (A-D in the diagram), and interior lot (B-D) or through lot (C-D).

Manufactured Home. See Section 4.12.02.

Manufactured Home Park. See Section 2.10.06.

Modular Home. See Section 4.12.01.

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

Nonconforming Building/Use. Any building or use of land, land lawfully occupied by a use at the time of passage of this regulation or amendment thereto, which does not conform after the passage of this regulation or amendment with the use regulations of the district in which it is situated.

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

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

Permit. A permit required by these regulations unless stated otherwise.

Permitted Use. Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

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

Planning Commission. The members appointed by the Town Board to serve in an advisory capacity on planning and zoning matters.

Plat. The maps, drawings, or charts on which a subdivider's plan of subdivision is legally recorded.

Principal Use. The primary use to which the premises are devoted.

Recreational Vehicle. means, a motor home, travel trailer, truck camper, or camping trailer, with or without motor power, designed for human habitation for recreational or emergency occupancy. A recreational vehicle does not include manufactured homes.

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

Service Station, Automobile. Any building or premise which provides for the retail sale of gasoline, oil, tires, batteries, and accessories for motor vehicles and for certain motor vehicle services, including washings, tire changing, repair service, battery service, radiator service, lubrication, brake service, wheel service, and testing or adjusting of automotive parts. Automobile repair work may be done at a service station provided that no rebuilding of engines, spray paint operations, or body or fender repair is permitted. Gasoline pumps and gasoline pump islands shall be located more than twelve (12) feet from the nearest property line.

Setback: The setback of a building is the minimum horizontal distance between the front line or street line and the nearest edge of any building or any projection thereof, except cornices and unenclosed porches, and entrances vestibules and window bays projecting not more than three and one-half (3 1/2) feet from the building and not more than fifty (50) square feet in area, and which do not extend above the first story of the building.

Sign. Any object, device, or structure, or part thereof, situated outdoors or visible from outdoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination, or projected images. This definition does not include:

1. National or state flags or their emblem or insignia, interior window displays, athletic scoreboards, or the official announcements or signs of government.
2. Signs not exceeding one (1) square foot in area and bearing only property numbers, post box numbers, names of occupants of premises, or other identification of premises not having commercial connotations;
3. Legal notices, identification, information, or directional signs erected or required by governmental bodies;
4. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts, or moving lights; and
5. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.

Sign (Off-Premise). A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered at a location other than the premises on which the sign is located.

Sign (On-Premise). A sign which directs attention to a business or profession conducted, or to a commodity or service sold, offered or manufactured, or to an entertainment offered on the premises where the sign is located.

Sleeping Quarters. A room or an area contained within a dwelling unit utilized for the purpose of sleep.

Specified Anatomical Areas means.

1. Less than completely and opaquely covered human or animal genitals, pubic region, or pubic hair, buttocks; and female breasts below a point immediately above the top of the areola; and
2. Genitals of humans or animals in a discernible turgid state, even if completely opaquely covered.

Specified Sexual Activities means.

1. Human or animal genitals in the state of sexual stimulation or arousal.
2. Acts or representations of acts of human or animal masturbation, sexual intercourse or sodomy, bestiality, oral copulation or flagellation.
3. Fondling or erotic touching of human or animal genitals, pubic region, buttock or female breast.

4. Excretory functions as part of or in connection with any activities set forth in an Adult Bookstore or "Adult Entertainment Facility".

Stable. A building for the shelter and feeding of domestic animals, especially horses and cattle.

Stable, Commercial. A building for the shelter and feeding of domestic animals, especially horses and cattle where such domestic animals are raised, trained, boarded, harbored, or kept for remuneration. Veterinary clinics, animal hospitals and animal shelters are specifically excluded.

Street. A public right-of-way which affords the principal means of access to abutting property. Also may be referred to as a road or highway. The term street shall include and apply to any public way except alleys.

1. **Arterial Street.** A street designated as such upon the Major Street Plan of the Comprehensive Land Use Plan of the Town of Summit.
2. **Collector Street.** A street designated as such upon the Major Street Plan of the Comprehensive Land Use Plan of the Town of Summit.
3. **Local Street.** Any street which is not an arterial street or collector street.

Street Line. The line between the public right-of-way and private property.

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

Structure, Temporary. Anything constructed or erected, or placed, the use of which requires temporary location on the ground or attached to something having a temporary location on the ground.

Subdivision. The division of a parcel of land into two or more lots or parcels for the purpose of transfer of ownership or building developments (whether immediate or future). This term includes resubdivision and, when appropriate to the context, is related to the process of subdividing or to the land subdivided.

Town Board. The governing body of the Town of Summit.

Trailer. Means any of the following:

1. **Travel Trailer.** A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational, and vacation uses. The trailer shall be permanently identified "travel trailer" by the manufacturer of the trailer and, when factory equipped for the road, it shall have a body width not exceeding eight (8) feet, and a body length not exceeding thirty (30) feet.
2. **Pick-up Coach.** A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation and vacation.

3. **Motor-Home.** A portable, temporary dwelling to be used for travel, recreation and vacation, constructed as an integral part of a self-propelled vehicle.
4. **Camper Trailer.** A canvas, folding structure, mounted on wheels and designed for travel, recreation and vacation use.

Twin Homes. A two-family dwelling which has a common wall and is platted into two (2) separate lots.

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

Waste. Any garbage, refuse, manure, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded materials, including solid, liquid, semi-solid or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solid or dissolved materials in domestic sewage or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended to January 1, 1986, or source, special nuclear or by-product materials as defined by the Atomic Energy act of 1954.

Wholesale Merchandising/Trade. Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

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

Yard, Front. A yard extending between side lot lines across the front of a lot adjoining a public right-of-way.

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

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

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

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

Yard Line. See Lot Line.

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

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

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