

CHAPTER 27-A

Zoning Ordinance

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27-A.01. Title and Purposes.

27-A.01.01. Title. An ordinance to provide for the establishment of zoning districts within which the proper use of land and natural resources shall be encouraged and regulated; to establish minimum standards for open space, building and population density; to regulate the occupancy and use of dwellings, buildings, and structures, mobile and manufactured housing, including tents, campers and recreational vehicles (RVs), that may hereafter be erected, altered, or moved; to provide for the administration hereof; to provide for a method of amending; to provide for conflicts with other acts, ordinances, or regulations; to provide for the collection of fees for the furtherance of the purpose of this ordinance; to provide for petitions and public hearings; to provide for appeals and for the organization and procedure of the Board of Adjustment; and to provide for penalties for the violation of this ordinance.

27-A.01.02. Short Title. These regulations shall be known and may be cited as *'The City of Hot Springs Zoning Ordinance'*.

27-A.01.03. Purposes. It is the purpose of this Zoning Ordinance to promote the safety, health, morals, convenience, and general welfare; to encourage the use of land and natural resources in the City in

accordance with their character, adaptability, and suitability for particular purposes; to conserve social and economic stability, property values, and the general character and trend of community development; to prevent excessive concentration of population; to facilitate adequate provision of streets and highways, storm water drainage, sewage treatment, water supply and distribution, educational, and other public resources by establishing herein standards for community development in accordance with these objectives and by providing for the enforcement of such standards.

27-A.02. Definitions.

27-A.02.01. Definitions.

For the purposes of this ordinance and in order to carry out the provisions and intentions as set forth herein, certain words, terms, and phrases are to be used and interpreted as defined hereinafter. Words used in the present tense shall include the future tenses; words in the singular number shall include the plural and words in the plural number shall include the singular; the word 'person' includes a firm, partnership, or corporation, as well as an individual; the word 'lot' includes the word 'plot' or 'parcel', and the word 'building' includes the word 'structure', the term 'shall' is always mandatory; and the word 'may' is permissive. The word 'used' or 'occupied' as applied to any land or building shall be construed to include the words 'intended', 'arranged', or 'designed to be used or occupied'.

The following words, terms, and phrases are hereby defined and shall be interpreted as such throughout this ordinance. Terms not herein defined shall have the meaning customarily assigned to them.

1. **Accessory Apartment:** A single apartment on the main commercial use floor of a 1-1.5 story structure where the apartment takes up no more than 25% of the overall ground floor area and the commercial use is maintained as the primary use and occupies the store front. *(Added October 2015, Ordinance 1157)*
2. **Accessory building:** A subordinate building, the use of which is incidental to that of a main building located on the same lot therewith.
3. **Accessory use:** A use customarily incidental, appropriate, and subordinate to the principal use of land or buildings and located upon the same lot therewith.
4. **Alley:** A minor right-of-way, dedicated to public use, which affords a secondary means of vehicular access to the back or side of properties otherwise abutting a street, and which may be used for public utility purposes.
5. **Alterations:** As applied to a building or structure, means a change or rearrangement in the structural parts, or an enlargement, whether by extending on a size or by increasing in height, or the moving from one location or position to another.
6. **Amusement and recreation establishments:** Businesses whose primary function is entertainment, such as theatres, billiard halls, etc.
7. **Arbor:** A detached, open framework yard or garden accessory structure that is integrated into landscape designs to provide shade and leisure, often including trellis or latticework for training

- climbing plants.
8. **Area, building:** The total areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of uncovered porches, terraces, and steps
 9. **Adult oriented business** - any adult arcade, adult bookstore or video store, cabaret, adult live entertainment establishment, adult motion picture theater, adult theater, massage establishment that offers adult service, or nude model studios. [Ord. 1181, 8/29/17]
 10. **Automobile wrecking:** The dismantling, storage, sale, crushing, or dumping of used motor vehicles, trailers, or parts thereof.
 11. **Average ground elevation:** The elevation of the mean finished ground surface at the front wall of a structure.
 12. **Basement:** A portion of a building that is partly or completely below grade, as defined in the International Building Codes. A walk-out basement shall be counted as a one-half (½) story.
 13. **Board:** The Board of Adjustment for the City of Hot Springs, South Dakota.
 14. **Bed and Breakfast Establishment:** A residence offering overnight lodging and a morning meal. A bed and breakfast establishment in a residential zone shall be regulated as a home occupation.
 15. **Boarding house:** A dwelling other than a hotel where, for compensation and by prearrangement for definite periods, meals are provided for three (3) or more but not exceeding twelve (12) persons on a weekly or monthly basis.
 16. **Building:** Any enclosed structure intended for shelter, housing, or enclosure of persons, animals, or chattel.
 17. **Building area of a lot:** That portion of a lot bounded by the required rear and side yards and front yard or the building setback line.
 18. **Building Codes:** The *International Building Code*, *International Residential Code*, *International Existing Building Code*, *International Fire Code*, *International Plumbing Code*, *International Mechanical Code*, and the *International Property Maintenance Code*, as officially adopted by the City Hot Springs.
 19. **Building, height of:** The vertical distance measured from the average ground elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and to the mean height between eaves and ridge for gable, hip, and gambrel roofs.
 20. **Building Inspector:** The person under the direction of the Building Official responsible for duties relating to the Building Department.
 21. **Building main or principal:** A building in which is conducted the principal use of the lot on which it is situated. In a residential district any dwelling shall be deemed to be a main building on the lot on which it is situated.
 22. **Building Official:** The appointed official responsible for the administration and enforcement of the City's codes and ordinances regulating construction, use or occupancy of buildings and structures, public or private.

23. **Building setback line:** A line delineating the minimum allowable distance between the street right-of-way and the front of a structure, within which no building or other structure shall be placed except as provided in 27-A.06.04. The building setback line is parallel to or concentric with the street right-of-way.
24. **Building site:** A single parcel of land under one ownership occupied or intended to be occupied by a building or structure.
25. **Building, Shop:** A heated structure designed and intended for storage or occupied occasionally as a temporary work place that is provided with water and sewer services. See “Shop Building”. Also see “Dry Storage Building” and “Cold Storage Building”.
26. **Business services:** Any activities conducted for gain which render service primarily to other commercial and industrial enterprises, or which service and repair appliances and machines used in a home or business.
27. **Carport:** A temporary or permanent unenclosed detached accessory structure, without doors, used for the sheltered parking of vehicles. Carports enclosed on more than two sides shall be considered a garage.
28. **Certificate of Occupancy:** The document issued by the building official when a new use is being established and the building has been inspected and found to meet adopted codes and ordinances relating to construction and use. Such certificate authorizes occupancy of the building for its specified use.
29. **Club, private:** An organization catering exclusively to members and their guest, or premises and buildings for recreational or athletic purposes which are not conducted primarily for gain, providing that any vending stands, merchandising or commercial activities are conducted only as required generally for the membership of such club.
30. **Cold Storage Building:** An unheated storage building not designed for human occupancy and that does not have water or sewer services to or inside the building. See “Dry Storage Building”.
31. **Compost:** Compost is the product resulting from the controlled biological decomposition of organic material that has been sanitized through the generation of heat and ‘processed to further reduce pathogens’ (PFRP), as defined by the U.S. EPA (Code of Federal Regulations Title 40, Part 503, Appendix B, Section B), and stabilized to the point that it is beneficial to plant growth.
32. **Condominium:** The owner owns the living space, but does not own the land or the exterior of the structure. Condominiums can have properties attached to either side and above and/or below, such as a high-rise condominium building. A townhouse can be sold as a condominium, but a condominium cannot be sold as a townhouse.
33. **Contractor, Small Scale:** A provider of construction services whose primary operations of their specific trade or product takes place primarily indoors such as plumber, electrician, cabinet/countertop maker, heating/cooling supplier, window and door installers, for example. Small scale contractors store their raw materials, goods, and supplies indoors with outdoor storage being only what is required to park vehicles, outdoor installation materials, and specialized trade-related trucks, excluding semis, trailers, and other types of earthmoving equipment.

34. **Country Club:** A chartered, non-profit membership club, with or without dining facilities and cocktail lounge, catering primarily to its membership, providing one or more of the following recreational and social amenities: golfing, riding, outdoor recreation, club house, locker room, pro shop.
35. **Day Care Facility:** Day Care Facilities, to include Family Child Care Homes, Group Family Child Care Homes, Child Care Centers, and Before and After School Care Centers, shall be defined and regulated in accordance with SDCL 26-6-27.
36. **Design capacity or Occupancy Load:** The maximum number of persons which can be accommodated at any one time with a reasonable degree of comfort, safety, and convenience.
37. **District:** Any section or sections of the municipality of the City of Hot Springs for which the regulations governing the use of land and the use, density, bulk, height, and coverage of buildings and other structures are uniform.
38. **Drive-in, commercial uses:** Any retail commercial use providing considerable off-street parking and catering primarily to vehicular trade such as drive-in restaurants, drive-in theatres, and similar uses.
39. **Dry Storage Building:** An unheated storage building not designed for human occupancy and that does not have water or sewer services to or inside the building. See "Cold Storage Building".
40. **Dwelling:** A building or portion thereof, exclusive of manufactured homes as herein defined, used for residential purposes.
41. **Dwelling, single family:** A detached building designed to be occupied exclusively by one (1) family, to include modular manufactured homes that give the appearance of a house, with a pitched roof, with horizontal lap or wood siding, and when placed on a permanent frost-free perimeter foundation which meets all building codes.
42. **Dwelling, two family:** A detached building to be occupied by two (2) families living independently of each other, exclusive of auto or trailer courts or camps, hotels, or resort type hotels.
43. **Dwelling, multiple:** A building designed for occupancy by three (3) or more families living independently of each other, exclusive of auto or trailer courts or camps, hotels, or resort type hotels.
44. **Dwelling unit:** One or more rooms and a single kitchen designed as a unit for occupancy by only one (1) family for cooking, living, and sleeping purposes.
45. **Electrical utility substation:** An electrical utility facility containing large capacity transformers fed by incoming high voltage transmission lines. Within the facility, voltages are reduced and fed to several distribution circuits that distribute electrical energy to areas with a predominate single use (i.e. industrial, residential, commercial area).
46. **Family:**
 - a. One (1) or more persons related by blood, marriage, or adoption or a group not to exceed five (5) persons (excluding servants) none of whom are related by blood or marriage, occupying the premises and living as a single non-profit housekeeping unit as distinguished from a group occupying a boarding or lodging house, hotel, club, or similar dwelling for group use.

- b. The term "Family" shall also include up to four (4) foster children or two (2) foster adults, or any combination thereof not to exceed four (4) persons, of a legally licensed foster care provider. A greater number of foster children or adults shall be considered a Foster Home.
47. **Feedlot, commercial:** A lot used for the concentrated feeding of livestock, fowl, or fur animals where such feeding is not done as an accessory use to the production of crops on the premises of which the feedlot is a part.
48. **Floor area:** The sum of the gross floor area for each of the several stories under roof, measured from the exterior limits or faces of a building or structure, to include finished and unfinished basements.
49. **Food processing:** The preparation of food products for retail sale on the premises.
50. **Fraternity or sorority house:** A building housing the members of a fraternity or sorority group living together under a cooperative arrangement as distinct from a boarding or lodging house or private club.
51. **Frontage:** All the property on one side of a street between two intersecting streets (crossing or terminating) measured along the line of the street, or if the street is dead-ended, then all the property abutting on one side between an intersecting street and the dead-end of the street.
52. **Garage, private:** An attached or detached non-habitable accessory structure used primarily for the storage of personal motor vehicles and storage of personal belongings.
53. **Garage, public:** Any garage other than a private garage, available to the public for rent or for lease, which is used for the storage of automobiles or other motor vehicles.
54. **Garage, repair:** A building in which are provided facilities for the care, servicing, repair, or equipping of motor vehicles.
55. **Gasoline service or filling station:** Any area of land, including structures thereon, that is used for the retail sale of gasoline, diesel, propane, butane, or other automobile fuels and accessories, and incidental services including facilities for lubricating, hand washing and cleaning, or otherwise servicing automobiles, but not including painting, major repair, or automatic washing.
56. **Governing body:**
- a. The duly elected officials of a corporate political entity to whom authority is given to make, adopt, or amend zoning regulations, or
- b. Hot Springs Common Council, when used in conjunction with the Aldermanic form of government.
57. **Grade, established:** The elevation of the center line of the streets as officially established.
58. **Grade, finished:** The completed surfaces of lawns, walks, and roads brought to grades as shown on official plans or designs relating thereto.
59. **Group care home/assisted living facility:** A residential facility established for the purpose of providing, on a long term basis and for monetary compensation, room and board for three (3) or more individuals living as a single household unit, who are unrelated by blood or marriage, and who by reason of age, physical, or mental disability may require personal assistance in achieving

personal independence. Such a facility may contain a separate and defined living unit for a resident caretaker or manager.

60. **Health Department:** South Dakota Department of Health.
61. **Historical monuments and/or structures:** Any antique structure or building existing contemporaneously with and commonly associated with an outstanding event or period of history, and any structure or building in which the relics and/or mementoes of such event or period are housed and preserved.
62. **Home occupation:**
- a. A gainful occupation conducted by members of the family only within the dwelling or on the premises, which is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof, provided that no display except a regulated sign will indicate from the exterior that the building or land is being utilized in part for any purpose other than that of a dwelling.
 - b. Activities conducted entirely within the residence, such as internet transactions or stock market transactions from a home office, which does not account for any vehicle or pedestrian traffic pertaining to that activity, and where there is no outward display of that activity, shall be exempt from the requirements of 27-A.08.04.
63. **Hotel:** A building occupied as the more or less temporary abiding place of individuals who are lodged with or without meals and in which there are more than twelve (12) sleeping rooms usually occupied singly with no provision made for cooking in any individual room or apartment.
64. **Hotel apartment:** An apartment building under resident supervision which maintains an inner lobby through which all tenants must pass to gain access to the apartment and which may furnish for the exclusive use of its tenants by previous arrangements and not to anyone who may apply, service ordinarily furnished by such hotels.
65. **Junk yard or salvage yard:** A lot, land, or structure, or part thereof, used primarily for the collecting, storage, and sale of wastepaper, rags, scrap metal or discarded material, or for the collecting, dismantling, storing, and salvaging of machinery or vehicles not in running condition, or for the sale of parts thereof.
66. **Kennel** to include the term **Cattery:**
- a. Any one lot, building, structure, enclosure, or premises where more than three (3) dogs over the age of six (6) months are kept shall be considered a commercial kennel operation.
 - b. Any one lot, building, structure, enclosure, or premises where more than three (3) cats over the age of six (6) months are kept shall be considered a cattery operation.
 - c. Commercial kennels and cattery operations are not allowed in residential districts except for some restricted use in Mountain Residential districts.
67. **Light Manufacturing** - Manufacturing or assembly operations conducted entirely within an enclosed structure and only by the property owner and their immediate family as a family owned and operated small business which does not detract from the neighborhood standard or adversely affect neighboring properties to include excessive dust, noise, or noxious vapors. "Light Manufacturing" shall include activities such as electrical/mechanical assembly operations,

firearm repair, leather working operations, light welding repair and fabrication, jewelry manufacturing, wood working and cabinetry operations, knife and saw sharpening operations and similar activities. [Ord. 1117, Eff. 6/21/12]

68. **Loading space:** A space within the main building or on the same lot therewith, providing for the standing, loading, or unloading of a truck.
69. **Lot:** A parcel of land which is or may be occupied by a single main building and its accessory buildings or used customarily incidental thereto, together with such yards or open spaces within the lot lines as may be required by this ordinance.
70. **Lot, area:** The total horizontal area included within lot lines.
71. **Lot, corner:** A lot of which at least two (2) adjoining sides abut for their full lengths on a street, provided that the interior angle at the intersection of two (2) such sides is less than one hundred thirty-five degrees (135°).
72. **Lot, Coverage:** The lot area covered by all buildings and structures, or parts of buildings or structures, permanent or temporary, except as provided in 27-A.06.04.
73. **Lot, depth:** The average distance from the street line of the lot to its rear line, measured in the general direction of the side lines of the lot.
74. **Lot, double frontage:** A lot which runs through a block from street to street and which has two (2) nonintersecting sides abutting on two (2) or more streets.
75. **Lot, frontage:** That dimension of a lot or portion of a lot abutting on a street, excluding the side dimension of a corner lot.
76. **Lot, interior:** A lot other than a corner lot.
77. **Lot, lines:** The lines bounding a lot as defined herein.
78. **Lot line, front:** In the case of an interior lot, the line separating said lot from the street. In the case of a corner or double frontage lot, the line separating said lot from that street which is designated as the front street in the request for building permit.
79. **Lot line, rear:** The lot boundary opposite and most distant from the front lot line. In the case of a pointed or irregular lot, it shall be an imaginary line parallel to and farthest from the front lot line, not less than ten feet (10') long and wholly within the lot.
80. **Lot line, side:** A side lot line is any lot boundary line not a front lot line or a rear lot line.
81. **Lot, width:** The width of a lot at the building setback line measured at right angles to its depth.
82. **Manufactured home:** Sometimes referred to as a 'mobile home' or 'trailer home'. A portable dwelling unit, designed and constructed to be towed on its own chassis, comprised of frame and wheels, and designed to be connected to utilities for year-round occupancy. The term shall include:
 - a. Units containing parts that may be folded, collapsed, extended or retracted when being towed and that may be expanded to provide additional capacity.
 - b. Units composed of two (2) or more separately towable components designed to be joined into one (1) integral unit, capable of being separated again for repeated towing.

81. **Manure:** Non-composted animal feces.
82. **Manufactured home subdivision:** Any areas, tracts, or sites or plots of land, of not less than two (2) acres, whereupon manufactured homes as herein defined are placed, located, or maintained, or intended to be placed, located, or maintained.
83. **Manufactured home space:** A plot of ground within a mobile home area which is designed for and designated as the location for two (2) automobiles and one (1) mobile home and not used for any other purposes whatsoever other than the customary accessory use thereof.
84. **Medical facilities:** Those facilities, buildings, structures or uses related to the medical field.
85. **Modular home:** A single finished dwelling unit, or a dwelling unit comprised of two (2) or more components designed to be permanently joined into a single unit, which is designed to be placed on a permanent frost-free perimeter foundation, with or without a basement. The specifications and completed unit shall comply with the International Residential Code as adopted. Not a manufactured or mobile home.
86. **Motel:** See **Hotel**.
87. **Nonconforming use:** A building, structure or use of land existing at the time of enactment of this ordinance and which does not conform to the regulations of the district in which it is situated.
88. **Noxious matter:** Material (in gaseous, liquid, solid, particulate, or any other form) which is capable of causing injury to living organisms by chemical reaction or is capable of causing detrimental effects upon the social, economic, or psychological well-being of individuals.
89. **Obstruction:** Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel rectification, bridge conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure or anything that is in, along, across, or projecting into any channel, watercourse, or regulatory flood hazard area which may impede, retard or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or that is placed where the flow of water might carry the same downstream to the damage of life or property.
90. **Parking lot:** An off-street facility parking space along with adequate provision for drives and aisles for maneuvering and giving access, and for entrance and exit, all laid out in a way to be usable for the parking of more than six (6) automobiles.
91. **Parking space:** An off-street space available for the parking of one (1) motor vehicle and having an area of not less than two hundred (200) square feet exclusive of passageways and driveways appurtenant thereto and giving access thereto, and having direct access to a street or alley.
92. **Penthouse:** An enclosed structure other than a roof structure located on a roof, extending not more than twelve feet (12') above the roof.
93. **Planning and Zoning Commission:** The City of Hot Springs Planning and Zoning Commission, also herein referred to as 'Commission' or 'the Commission'.
94. **Plat:** A map, plan, or layout indicating the location and boundaries of individual properties.
95. **Principal use:** The specific primary purpose for which land or a building is used.
96. **Property line:** The legal property border line dividing private ownership from other private ownership or public right-of-way.
97. **Public uses:** Public parks, schools, and administrative, cultural, and service buildings not including public land or buildings devoted solely to the storage and maintenance of equipment and material.
98. **Public utility:** Any person, firm, corporation, municipal department or board duly authorized to furnish and furnishing under state or municipal regulations to the public, electricity, gas, steam,

- communication, telegraph, transportation, sewer system or water system.
99. **Public utility substations, service yards, and pumping stations:** Shall include service yards used for the storage of utility supplies and for the servicing of utility vehicles and equipment.
100. **Quarry:** A lot or land or part thereof used for the purpose of extracting stone, sand, gravel, or topsoil for sale, as an industrial operation, and exclusive of the process of grading a lot preparatory to the construction of a building for which application for a building permit has been made.
101. **Recreational facilities:** Country clubs, riding stables, golf courses, and other recreation areas and facilities, or recreation centers including private swimming pools.
102. **Regulatory flood:** A flood which is representative or large floods known to have occurred generally in the area and reasonably characteristic of what can be expected to occur in a particular stream. The regulatory flood generally has a frequency of approximately fifty (50) years determined from an analysis of floods on a particular stream and other streams in the same general region.
103. **Regulatory flood protection elevations:** The elevations to which uses regulated by this ordinance are required to be elevated or flood proofed.
104. **Required setback:** A distance necessary to obtain the minimum front, side, and rear yards required by this ordinance.
105. **Rooming house:** A building where lodging only is provided for compensation to three (3) or more, but not exceeding twelve (12) persons. A building which has accommodations for more than twelve (12) persons shall be defined as a hotel under the terms of this ordinance.
106. **Sanitary sewer:** A municipal or community sewage disposal system of a type approved by the State Department of Health.
107. **Self-service laundry:** A laundry providing home type washing, drying, and ironing machines to be used primarily by the customers on the premises. Also referred to as a 'Laundromat'.
108. **School, private:** An institution of learning that is not tax supported, including colleges and universities.
109. **School, public:** A tax supported institution of learning, including colleges and universities.
110. **Shop Building:** A heated structure designed and intended for storage or occupied occasionally as a temporary work place that is provided with water and sewer services. See "Building, Shop".
111. **Sign, advertising:** Any writing, painting, display, emblem, drawing, sign, or other device designed, used, or intended to be used for display or any type of publicity for the purpose of making anything known or attracting attention to a place, product, goods, services, idea or statement.
112. **Sign, aggregate area:** The total square footage of all business and outdoor advertising signs on any specific lot. The area of a sign shall be determined by the smallest circle, triangle, trapezoid, or rectangle that can be used to enclose that which the advertisement is composed of, exclusive of the supporting structure that bears no message.
113. **Sign, alteration:** Any change of copy, sign face, color, size, shape, illumination, location, construction, or supporting structure of any sign.
114. **Sign, animated:** A sign that uses movement, lighting or special materials to depict action or create a special effect to imitate movement.
115. **Sign, area identification:** A sign to identify a common area containing a group of structures, or a single structure on a minimum of five acres, such as a residential subdivision, apartment complex, industrial park, or shopping center, located at the entrance or entrances of the area

will be considered as an On-Premise Business Sign for the purpose of this ordinance.

116. **Sign, banner:** A sign composed of lightweight material enclosed or unenclosed in a rigid frame, secured or mounted so as to allow movement of the sign caused by movement of the atmosphere.
117. **Sign, bench:** A sign which is affixed to a bench not to include memorial dedications in park or recreational areas.
118. **Sign, billboard:** An on-premise or off-premise sign which exceeds the sign size and/or area regulations for the district in which it is intended to be placed.
119. **Sign, building marker:** Any sign or stone indicating the name of a building date or incidental information about its construction.
120. **Sign, building/wall:** Any sign attached to, or constructed against the wall or painted on the surface of the wall of a building, with the exposed face of the sign in a plane parallel with the plane of the wall.
121. **Sign, business/tenant:** That portion of a building frontage occupied by a single tenant space having a public entrance within the building frontage. For businesses located on the interior of a building without building frontage, the building elevation providing customer access shall be considered the business frontage.
122. **Sign, canopy:** A sign that is a part of or attached to any awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance window, or outdoor service area
123. **Sign, construction/development:** On a lot, signs not more than twelve (12) square feet in area, stating the names of contractors, engineers or architects, but only during the time that construction or development is actively underway.
124. **Sign, directional:** Used to give directions to or location of a specific place. Messages on a directional sign shall be limited to the proper name of the site and the mileage or distance, route numbers, and exit numbers.
125. **Sign, double-faced:** A sign constructed to display its message on the outer surfaces of two identical and opposite planes at an angle of forty-five degrees or less.
126. **Sign, electronic reader board:** A sign or portion thereof which can be electronically changed or rearranged without altering the face or the surface of the sign. A sign on which the only copy that changes is an electronic or mechanical indication of time or temperature shall be considered a "time and temperature" portion of a sign and not a commercial message or an electronic reader board sign for purposes of this Chapter.
127. **Sign, exposed neon:** Signage such that the neon tubing is visible to the eye. This shall not include neon signs located within building windows, or behind opaque sign faces.
128. **Sign, flashing:** An illuminated sign on which artificial light is not maintained stationary and/or constant in intensity and color.
129. **Sign, freestanding or pole:** A sign which is supported by one or more uprights, poles, or braces in or upon the ground.
130. **Sign, future tenant:** An on-premise temporary sign that identifies the names of future

businesses.

131. **Sign, garage/yard sale:** A private sale of personal property used to dispose of personal household possessions; not for the use of any commercial venture.
132. **Sign, governmental:** A sign erected by a government agency or its designee, setting forth information pursuant to law and/or ordinance.
133. **Sign, grand opening:** A one-time promotional activity not exceeding thirty calendar days used by newly established businesses location within two months after occupancy to inform the public of their location and service available to the community.
134. **Sign, ground:** A sign where the bottom coping is less than twenty-four inches (24") from the grade below.
135. **Sign, illuminated:** A sign where artificial light projects from within or onto the sign copy. Interior illumination shall mean signs where the artificial light source is located within the sign and is not viewable from the exterior of the sign. Exterior illumination is a light source that is visible exterior to the sign.
136. **Sign, inflatable:** An object bearing advertisement that is inflated with air or gas.
137. **Sign, maintenance:** The repair or replacement in kind of individual sign components including paper, fabric or plastic copy panels, electrical wiring and bulbs, or paint, stucco or other exterior finishes.
138. **Sign, marquee:** A projecting sign attached to, in any manner, or made a part of a marquee. A Marquee Sign must maintain a minimum vertical clearance of 9.0' (feet).
139. **Sign, multi-faced:** A two-sided sign which is the same on both sides. The single structural component is counted as one sign.
140. **Sign, monument:** A freestanding sign that does not have exposed pole or pylon, and is attached to a single columnar base for at least seventy-five (75) percent of the entire width of the sign.
141. **Sign, non-conforming:** A sign lawfully erected and maintained prior to the adopting of this ordinance that does not conform with the requirements of this ordinance.
142. **Sign, off-premise:** A sign, including the supporting sign structure, which is visible from the street or highway and advertises goods or services not located on the premises and/or property upon which the sign is located; also called a billboard. The following shall *not* be considered an off-premise sign for the purposes of this ordinance:
 - 1) Direction or official signs authorized by law or ordinance;
 - 2) Real Estate Signs;
 - 3) On-premise signs.
143. **Sign, on-premise:** A sign that advertises goods or services available at the site and on the lawful premises of the billboard or advertising sign
144. **Sign, pennant:** Any lightweight plastic, fabric or other material, whether or not containing a message of any kind, suspended from a rope, wire or string, usually in a series, designed to move in the wind.

145. **Sign, pole:** A freestanding sign which is erected upon one or more posts directly in or upon the ground and not attached to, braced by, any other structure.
146. **Sign, political:** A sign designed for the purpose of advertising support of or opposition to a candidate or proposition for a public election.
147. **Sign, portable:** A sign designed to be movable from one place to another, which is not affixed to the ground or structure; also called a "mobile sign."
148. **Sign, projecting:** A sign which is affixed to a wall of a building and extends outward from the building wall with a minimum vertical clearance on 9.0' (feet).
149. **Sign, real estate:** A sign offering property (land and/or buildings) for sale, lease, or rent, (16 sf or less).
150. **Sign, repair:** The replacement of metal or wood cabinets, structural faces, supporting structural members, primary uprights, posts and poles, or the sign in its entirety.
151. **Sign, roof:** A sign erected or attached in whole or in part upon the roof of a building.
152. **Sign, trailer or semi-trailer:**
- a. A trailer or semi-trailer unit that is not currently commercially licensed and operable shall be considered an off-premise sign.
 - b. A trailer or semi-trailer unit that is currently commercially licensed and operable shall be considered a temporary sign.
153. **Sign, structure:** Any structure which supports, has supported, or is capable of supporting multiple signs.
154. **Sign, temporary:** Signs, not greater than thirty-two square feet (32 sf) in area, that are temporary in nature, used in conjunction with a specific event, that is placed, moved, or erected in such a manner so that it may be easily removed from the property and is not permanently affixed. Temporary signs must be placed, built, erected, or moved on to site location in such a manner as to be easily removed. Temporary signs are only allowed ten (10) days prior to any lawful event and must be removed from premise within two (2) business days of conclusion of the event. Temporary signs placed longer than fourteen (14) days must meet the requirements of a permanent sign.
155. **Sign, time and temperature:** A sign or portion of a sign displaying only current time and temperature in an electronic, digital fashion.
156. **Sign, vehicle:** A sign placed, painted, attached, or displayed on a vehicle advertising a company, store, or service.
157. **Sign, window:** A sign, picture, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale or service that is placed inside a window or upon the window.
158. **Story:** That portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it.

159. **Story, half:** A story under a gable, hip, or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than two feet (2') above the floor of such story.
160. **Street or Lane:** A public or private thoroughfare which affords the principal means of access to abutting property.
161. **Street grade:** The officially established grade of the street upon which a lot fronts or in its absence the established grade of other street upon which the lot abuts, at the midpoint of the frontage of the lot thereon. If there is an officially established grade, the existing grade of the street at such midpoint shall be taken as the street grade.
162. **Street, intersecting:** Any street which joins another street at an angle, whether or not it crosses the other.
163. **Street line:** The legal line between street right-of-way and abutting property.
164. **Structure:** Structure means a combination of materials to form a construction that is safe and stable and includes among other things stadiums, platforms, radio and television towers, sheds, storage bins, fences, and display signs.
165. **Theater, moving picture:** A building or part of a building devoted to the showing of moving pictures on a paid admission basis.
166. **Theater, outdoor drive-in:** An open lot or part thereof, with its appurtenant facilities, devoted primarily to the showing of moving pictures or theatrical productions, on a paid admission basis, to patrons seated in automobiles or on outdoor seats.
167. **Townhouse:** One of a group of two (2) or more attached single-family dwelling units built on one (1) or more common lot lines. Each townhouse shall be located on an individually platted lot. The owner owns the living space, the land upon which the townhouse sits, the immediate air space above it, and the open space provided or it. Though it may have properties attached to either side, it will not have properties attached above or below it. A townhouse can be sold as a condominium, but a condominium cannot be sold as a townhouse.
168. **Trailer, hauling:** A vehicle which is designed for hauling animals, produce, goods, or commodities, including boats and other recreational devices.
169. **Trailer, travel or camping:** A portable or mobile living unit used for temporary human occupancy away from the place of residence of the occupants. Also known as a camper or RV.
170. **Travel or RV park:** Is defined as a plot of ground primarily for use as parking and camping facilities by persons with campers or RVs.
171. **Use:** The specific purpose for which land or a building is designed, arranged, intended, or for which it is or may be occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any nonconforming use.
172. **Utilities:** Municipal and franchised utilities, and any other utility approved by the City.
173. **Way:** A street or alley or other thoroughfare or easement permanently established for passage of persons or vehicles.
174. **Walkway:** A path or area for pedestrians.

- 175. **Yard:** An open space between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward except where otherwise specifically provided in this ordinance that building or structure may be located in a portion of a yard required for a main building. In measuring a yard for the purposes of determining the width of the side yard, the shortest horizontal front yard or the depth of a rear yard, the shortest horizontal distance between the lot line and the main building shall be used.
- 176. **Yard, front:** An open unoccupied space on the same lot with a main building extending the full width of the lot and situated between the street line and the front line of the building projected to the side line of the lot. The depth of the front yard shall be measured between the front line of the building and the street line.
- 177. **Yard, rear:** A place on the same lot with the principal building, between the rear line of the building and the rear line of the lot and extending the full width of the lot, which is unoccupied except for permitted accessory structures.
- 178. **Yard, side:** An open unoccupied space on the same lot with the building, situated between the building and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a side line.
- 179. **Zoning Administrator:** The official designated by the Common Council to administer the City's zoning regulations.

27-A.03. Zoning Districts and Map.

27-A.03.01. Establishment of Zoning Districts. For the purpose of promoting the public health, safety, morals, convenience, and the general welfare of the community, Hot Springs, South Dakota, is hereby divided into districts of twelve (12) different types, each being such number, shape, kind, and area, and such common unity of purpose, and adaptability of use, that are deemed most suitable to carry out the purpose of this ordinance.

Type of Districts:	RA - Residential 'A'	(27-A.04.01)
	RB - Residential 'B'	(27-A.04.02)
	MR - Mountain Residential	(27-A.04.03)
	GC - General Commercial	(27-A.04.04)
	MXD-I - Mixed Use District-I	(27-A.04.05)
	HS - Highway Service	(27-A.04.06)
	GI - General Industrial	(27-A.04.07)
	GD - Greenway District	(27-A.04.08)
	NU - No Use District	(27-A.04.09)
	MGC - Golf Course	(27-A.04.10)
	GCRA - Golf Course Residential 'A'	(27-A.04.11)
	GCC - Golf Course Commercial	(27-A.04.12)

Source: Ord. 964, 2/2000; Ord. 1033, 4/2008

27-A.03.02. Zoning Map. The location and boundaries of the zoning districts established by this ordinance are denoted and defined as shown in the map entitled “Zoning Map of the City of Hot Springs, South Dakota”, adopted June 22nd, 1982 and certified by the City Finance Officer. The said map together with everything shown thereon with all amendments adopted thereto, is hereby incorporated into this Ordinance as fully set forth and described herein. The zoning map shall be kept and maintained by the Building Official and shall be available for inspection and examination by members of the public at all reasonable times as any other public record.

Source: Ord. 964, 2/2000; Ord. 1033. 8/2008

27-A.03.03. Scope of Regulations. The regulations applying to each district include specific limitation on the use of land and structures, height and bulk of structures, density of population, lot area, yard dimension, and area of lot that can be covered by structures.

27-A.03.04. Rules for Interpretation of District Boundaries. Where uncertainty exists with respect to the precise location of any of the aforesaid districts shown on the Zoning map, the following rules shall apply:

- A. Boundaries shown as following or approximately following streets, highways, or alleys shall be construed to follow the center lines of such streets, highways, or alley
- B. Boundaries shown as following or approximately following platted lot lines or other property lines, such lines shall be construed to be said boundary lines.
- C. Boundaries shown as following or approximately following railroad lines shall be construed to lie midway between the main tracks of such railroad lines.
- D. Boundaries shown as following or approximately following the center line of streams, rivers, or other continuously flowing water courses shall be construed as following the channel center line of such water courses and the said boundaries shall be deemed to be at the limit of the jurisdiction of the City unless otherwise indicated.
- E. Boundaries shown as following or closely following the limits of political jurisdictions shall be construed as following such limits.
- F. Where the application of the aforesaid rules leaves a reasonable doubt as to the boundaries between two districts, the regulations of the more restrictive districts shall govern the entire parcel in question, unless otherwise determined by the governing body.
- G. Whenever any street, alley, or other public easement is vacated, the district classification of the property to which the vacated portions of land accrue shall become

the classification of the vacated land.

27-A.04. District Regulations.

27-A.04.01 . **Residential “A” District (RA).**

- A. General Description. This district is to provide for medium residential development density. The principal uses of land range from residences to uses which are functionally compatible with residential uses. Recreational, religious, educational facilities, and other related uses in keeping with the residential character of the district may be permitted on review by the governing body.
- B. Permitted Principal and Accessory Uses and Structures. Property and buildings in the Residential “A” (RA) area shall be used only for the following purposes:
 - 1. Single family dwellings but not including manufactured homes;
 - 2. Two family dwellings;
 - 3. Rooming and boarding houses;
 - 4. Temporary buildings for uses incidental to construction work, which buildings shall be immediately adjacent to said construction work and which buildings shall be removed upon completion or abandonment of the construction work;
 - 5. Transportation and utility easements, alleys, and right-of-ways;
 - 6. Accessory uses and buildings in accordance with 27-A.06.02.:
 - a. provided such uses are incidental to the principal use and do not include any activity commonly conducted as a business;
 - b. any accessory building shall be located on the same lot, tract or parcel with the same Parcel Identification Number as with the principal building;

Exception: A variance may be granted for an accessory structure to be placed or constructed prior to the construction of the principal structure whereupon the Board of Adjustment finds that:

- c. the site plan submitted with the building permit application clearly indicates the planned accessory structure and the remaining buildable area for the future primary structure and,
- d. all other provisions of zoning ordinance for that district are met and,

- e. accessory structures with habitable space meet the requirements of the adopted or referenced electrical, plumbing and building codes.
- 7. Signs, as regulated in 27-A.06.07.
- 8. Temporary placement of tents, campers, RVs, and travel trailers where the occupants are away from their place of legal residence for the purpose of vacationing or visiting for a length of time not to exceed three (3) weeks in any ninety (90) day period.

C. Uses Permitted on Review.

The following may be permitted on review by the governing body in accordance with provisions contained in 27-A.08.04.

- 1. Multiple family dwellings and group homes or transitional housing.
- 2. Churches or similar places of worship, and accessory structures thereto. Accessory structures shall not include missions or revival tents.
- 3. Elementary or high schools, public or private.
- 4. Public parks, playgrounds and playfields, greenways, and neighborhood and municipal buildings and uses in keeping with the character and requirements of the district.
- 5. Libraries, museums, and historical monuments or structures.
- 6. Public utilities, substations, and pumping stations, subject 27-A.05.01(C).
- 7. Plant Nurseries.
- 8. Golf courses, or country clubs, with adjoining grounds of not less than sixty (60) acres, but not including miniature courses and driving tees operated for commercial purposes.
- 9. Fraternities, sororities, and denominational student headquarters.
- 10. Nursing homes or homes for the aged.
- 11. Medical facilities, except veterinary hospitals or clinics, or other professional offices.
- 12. Home occupations as regulated in 27-A.06.09.
- 13. Day Care Facilities, as regulated in 27-A.05.01(D).
- 14. Mobile home subdivisions as regulated in 27-A.05.01(H).

15. Foster homes.
 16. Mortuaries and Funeral Homes.
 17. Boys and girls clubs, neighborhood/community recreational centers, and heritage centers.
 18. Other uses similar in character to those enumerated above and which in the opinion of the governing body will not be injurious to the district.
- D. Area Regulations. All buildings shall be set back property lines to comply with the following requirements.
1. Front Yard:
 - a. For single, two-family and multiple-family dwellings the minimum depth of the front yard shall be twenty-five feet (25') and in no case shall an accessory building be located to extend into the front yard.
 - b. Churches and other main and accessory buildings, other than dwellings, shall have a front setback of thirty-five feet (35').
 2. Side Yard:
 - a. For single story dwellings, located on interior lots, side yards shall be not less than ten feet (10') in width. For dwellings of more than one (1) story, there shall be side yards of not less than twelve feet (12').
 - b. For unattached buildings of accessory, non-occupied use, there shall be a side yard of not less than eight feet (8').
 - c. Unattached accessory buildings with habitable space shall not be located closer to any side lot line than ten feet and additional off-street parking shall be provided accordingly.
 3. Rear Yard:
 - a. For primary use structures and attached accessory use structures, there shall be a rear yard of not less than twenty-five feet (25').
 - b. Unattached buildings of accessory, non-occupied use shall not be located closer to any rear lot line than five feet (5').
 - c. Unattached accessory buildings with habitable space shall not be located closer to any rear lot line than ten feet (10') and additional off-street parking shall be provided accordingly.

- d. That the set-back requirements provided in subparagraphs (a) and (b) herein for rear yards shall not apply to any properties located in the Cold Springs Addition to the City of Hot Springs in which the property abuts the flood control channel located in Cold Springs Addition.

4. Lot Width.

- a. For single family dwellings there shall be a minimum lot width of fifty feet (50') at the front building line. May be average of fifty (50) feet if the lot abuts a street for a minimum of thirty
- b. For two family dwellings there shall be a minimum lot width of seventy-five feet (75') at the front building line.
- c. For multiple family dwellings there shall be a minimum lot width of one hundred feet (100') at the front building line.

5. Intensity of Use.

- a. For each single family dwelling and building accessory thereto, there shall be a lot area of not less than six thousand (6000) square feet.
- b. For each two family dwellings there shall be a lot area of not less than nine thousand (9000) square feet.
- c. For multiple family structures, there shall be a lot area of not less than six thousand (6000) square feet plus an additional one thousand five hundred (1500) square feet for each dwelling unit. For those structures which provide off-street parking within the main structure, the lot area requirements may be reduced two hundred (200) square feet per dwelling unit.
- d. For churches and other main and accessory buildings, other than dwellings and buildings accessory to dwellings, the lot area shall be adequate to provide the yard areas required by this section and the off-street parking areas required in 27-A.06.05; provided, however, that the lot for a church shall not be less than thirty thousand (30,000) square feet.

- 6. Maximum Lot Coverage. Main and accessory buildings shall cover not more than thirty percent (30%) of the lot area.

- E. Usable Open Space. For multiple family structures there shall be usable open space provided for each dwelling unit of not less than four hundred (400) square feet. Open

space does not include drives, parking, and service areas.

- F. Height Regulation. No main building shall exceed two and one-half (2½) stories or thirty five feet (35') in height, except as provided 27-A.06.03.
- G. Off-Street Parking. As regulated in 27-A.06.05.
- H. Landscape requirements. As regulated in 27-A.06.01.

Source: Ord. 964, 2/2000; Ord. 1035, 8/2006; Ord. 1074, 5/2009; Ord. 1109, 10/2011

27-A.04.02. Residential 'B' District (RB).

- A. General Description. This district is to provide for medium to high residential development density. The principal uses of land range from residences and mobile homes to uses which are functionally compatible with intensive residential uses. Recreational, religious, education facilities, and other related uses in keeping with the residential character of the district may be permitted on review by the governing body.
- B. Residential 'B' districts are subject to all Residential 'A' district regulations with the following exceptions:
 - 1. Manufactured homes are allowed as single-family dwellings when placed in accordance with local code requirements, within existing mobile home parks per 13-A.04 and outside of mobile home parks per 13-A.05.

Source: Ord. 964, 2/2000; Ord. 1074, 5/2009; Ord. 1156 10/2015

27-A.04.03. Mountain Residential District (MR).

- A. General Description. This district is intended to protect and preserve the natural beauty and open character of forested and other natural growth areas from incompatible land uses.
- B. Permitted Principal and Accessory Uses and Structures. Property and buildings in the Mountain Residential District (MR) shall be used for the following purposes.
 - 1. Single family dwellings but not including manufactured homes.
 - 2. Transportation and utility easements, alleys, and right-of-ways.
 - 3. Signs, as regulated in 27-A.06.07.
 - 4. Accessory uses and structures in accordance with 27-A.06.02.

5. Bed and breakfast facilities.
6. Temporary placement of tents, campers, RVs, and travel trailers where the occupants are away from their place of legal residence for the purpose of vacationing or visiting for a length of time not to exceed three (3) weeks in any ninety (90) day period.
7. As an accessory use to the primary use, up to two (2) horses for personal use may be kept provided that manure shall not be kept, stored, or stockpiled on the premises. Foals may be kept until weaning, but not to exceed ten (10) months of age.
8. An additional three (3) horses, as well as cats and dogs, may be boarded on said property, for up to one week as part of a bed and breakfast operation, provided said property consists of not less than four (4) acres, and appropriate and sanitary facilities are provided for the keeping and securing of those animals.

C. Uses Permitted on Review

The following uses may be permitted on review by the governing body in accordance with provisions contained in 27-A.08.04.

1. Public parks and/or playgrounds.
2. Historical monuments or structures.
3. Utility substations.
4. Plant nurseries.
5. Cemeteries.
6. Customary home occupations.
7. Light Manufacturing, as defined in this chapter [Ord. 1117, Eff. 6/21/12]
8. Other uses similar in character to those enumerated above and which in the opinion of the governing body will not be injurious to the district.

D. Nonpermitted Use.

1. Under no circumstances shall manufactured homes or manufactured home parks be permitted in this district.
2. Animal manure in any appreciable amount that is kept, piled, stored, or stockpiled shall be considered a non-compliance land use in accordance with 27-A.07.01(E).

- E. Area Regulations. All buildings, corrals, pens and kennels shall be set back from property lines to comply with the following requirements.
1. Front yard: For all structures, the minimum depth of the front yard shall be fifty feet (50') and in no case shall an accessory building be located or extended into the front yard.
 2. Side Yard.
 - a. For a single story dwelling, located on interior lots, side yards shall be not less than thirty feet (30') in width. For dwellings of more than one story, there shall be a side yard requirement of not less than forty feet (40').
 - b. For unattached buildings of accessory use, there shall be a side yard of not less than twenty feet (20').
 3. Rear Yard.
 - a. For main buildings there shall be a rear yard of not less than fifty feet (50').
 - b. Unattached buildings of accessory use shall not be located closer to any rear lot line than twenty feet (20').
 4. Lot Width.
 - a. For all dwellings there shall be a minimum lot width of one hundred feet (100') at the front building line. Such lot shall abut on a public street for a distance of not less than fifty feet (50').
 5. Intensity of Use.
 - a. For each dwelling or structure, and building accessory thereto, there shall be a lot area of not less than three (3) acres.
 6. Maximum Lot Coverage.
 - a. Dwellings and buildings accessory thereto shall cover not more than twenty-five percent (25%) of the lot area.
- F. Height Regulations. No main building shall exceed two and one-half (2 1/2) stories or thirty-five feet (35') in height, except as provided in 27-A.06.03. Accessory buildings shall not exceed fifteen feet (15') in height.
- G. Off-street Parking. As regulated in 27-A.06.05.

H. Landscape requirements. As regulated in 27-A.06.01.

Source: Ord. 964, 2/2000; Ord. 995, 6/2003; Ord. 1074, 5/2009

27-A.04.04. **General Commercial District (GC).**

- A. General Description. This commercial district is for personal and business services and general business activity.
- B. Uses Permitted. The following uses shall be permitted in the General Commercial District provided that each use have street access to a commercial, industrial, or highway service zoning district street.
 - 1. Retail establishments including incidental manufacturing of goods for sale at retail on the premises. Sales and display rooms and lots, not including yards for storage of new or used building materials or yards for any scrap of new or used building materials or yards for any scrap or salvage or secondhand materials. The storage, display, and sale of used, repossessed, or traded-in merchandise incidental to a retail operation engaged primarily in the sale of new merchandise is permitted.
 - 2. Eating and drinking establishments.
 - 3. Vehicle service and repair garages, including filling stations.
 - 4. Personal service establishments, including barber and beauty shops, shoe repair shops, funeral homes, cleaning, dyeing, laundry, medical and/or dental clinics or offices, pressing, dressmaking, tailoring and garment repair shops with processing on the premises.
 - 5. Hotels, motels, rooming, bed and breakfast and boarding houses.
 - 6. Commercial recreational structures and uses, such as theaters, bowling alleys, poolroom, amusement and recreational establishments, and miniature golf courses, but not including driving ranges, unless in an enclosed structure.
 - 7. Parking lots and public garages.
 - 8. Offices, studios, human health service clinics, and laboratories.
 - 9. Financial institutions.
 - 10. Private clubs and lodges.
 - 11. Outdoor advertising as regulated in 27-A.06.07.

12. Auditorium and recreation establishments.
13. Public or municipal swimming pools.
14. Laboratories and establishments for production and repair of jewelry, eye glasses, hearing aids, and prosthetic appliances.
15. Public buildings and grounds other than elementary, middle or high schools.
16. Churches.
17. Business and vocational schools not involving operations of an industrial character.
18. Public parks.
19. Wholesale and distributing centers not involving the use of any delivery vehicle rated at more than one and one-half (1½) tons capacity; nor a total of more than five (5) delivery vehicles.
20. On the same premises, and in connection with permitted principal uses and structures, other uses and structures which are customarily accessory and clearly incidental to permitted or permissible uses and structures.
21. Any other store or shop for retail trade or for rendering personal, professional, or business service which does not produce more noise, dust, odor, vibration, blast, and traffic than those permitted uses enumerated above.
22. Dwelling units in multi-storied structures wherein the street or ground floor level is occupied by one of the permitted retail or business services enumerated above.

C. Uses Permitted on Review.

The following uses may be permitted on review by the governing body in accordance with the provisions contained in 27-A.08.04.

1. Electrical receiving or transforming stations.
2. Public utility substations, service yards, and pumping stations subject to 27-A.05.01(C).
3. Apartment houses.
4. For any proposed business not having access to a commercial, industrial, or highway Service Street as permitted under Section B.
5. An accessory apartment. (See definition) The Use Permit will be subject to the

following criteria: *(Added October 2015, Ordinance 1157)*

- a) An accessory apartment would not be allowed as an accessory to eating or drinking establishments.
 - b) The accessory apartment would be required to have its own entrance and that apartment shall have to meet all fire and life safety codes
 - c) The commercial character of the structure must be maintained (e.g. all satellite dishes be roof mounted or mounted off of the façade)
 - d) The business MUST be opened within the first 6 months of the accessory apartment certificate of occupancy to meet the criteria of the Use Permit. The goal is to have a business in place if someone is living on the property and have commercial vacancies no longer than 6 months (including off-season use).
6. Other uses similar in character to those enumerated above and which in the opinion of the governing body will not be injurious to the district.
- D. Non-permitted Use.
1. Under no circumstances shall manufactured homes or manufactured home parks be permitted in this district.
 2. Under no circumstance shall vehicle or equipment repair facilities, private or public, operate salvage operations of vehicles or vehicle parts except as permitted in accordance with 27-A.05.01 (E).
 3. Under no circumstances shall an adult oriented business be permitted in this district. [Ord. 1181, 8/29/17]
- E. Area Regulations. The following requirements shall apply to all uses permitted in this district.
1. Front Yard: None.
 2. Side Yard: No side yard is required except that the width of a side yard which abuts a residential district shall be not less than twenty-five feet (25').
 3. Rear Yard: Where a commercial building is to be serviced from the rear, there shall be provided an alleyway, service court, rear yard, or combination thereof of not less than thirty feet (30') in depth. The depth of a rear yard which abuts a residential district shall be not less than fifteen feet (15'). In all other cases, no rear yard is required.
 4. Lot coverage. Main and accessory buildings shall cover not more than eighty

percent (80%) of the lot area.

- F. Height Regulations. No building or structure shall exceed five (5) stories or sixty feet (60') in height except as provided in 27-A.06.03.
- G. Off-Street Parking. For permitted retail, business, and personal service establishments, no off-street parking requirements.
- H. Landscape requirements. As regulated in 27-A.06.01.

Source: Ord. 964, 2/2000; Ord. 993, 3/2003

27-A.04.05. Mixed Use District-I (MXD-I)

- A. General Purpose and Description. The Mixed Use District-I (MXD-I) is intended to accommodate a variety of housing opportunities, office, retail, service uses, and live-work environments, and to ensure that the areas and land uses are compatible with the character of existing mixed-use corridors and in areas of new development. This district is expected to be pedestrian oriented and maintain connectivity within the district and with adjacent neighborhoods.
- B. Uses Permitted. Mixed Use District-I is intended to encourage a mix of residential, business, office, commercial and institutional uses. The size, location, appearance and method of operation of intended uses shall be specified to the extent necessary to insure compliance with the purpose of this district. The following uses shall be permitted in the Mixed Use District-I.
 - 1. Single-family, two-family and multi-family dwellings, hotels, motels, condominiums, apartment buildings and dormitories;
 - 2. Home occupations as denoted in 27-A.06.09 shall be permitted in accordance with 27-A.08.04. Uses Permitted on Review.
 - 3. Multi-story buildings where the ground floor is utilized as commercial space and the upper stories are apartments or condominiums;
 - 4. Retail establishments;
 - 5. Eating and drinking establishments, excluding drive-in establishments;
 - 6. Personal service establishments as allowed in General Commercial Districts;
 - 7. Business or administrative offices, studios, medical clinics, and laboratories;
 - 8. Financial Institutions, including drive-up services;
 - 9. Signs as regulated in 27-A.06.07;
 - 10. Indoor recreation or amusement establishments;
 - 11. Business, vocational and public schools not involving outdoor industrial

- operations;
 - 12. Churches, undertaking establishments and funeral homes;
 - 13. Wholesale and distribution centers that are conducted entirely within a building;
 - 14. On the same premises, and in connection with permitted principal uses and structures, other uses and structures which are customarily accessory and clearly incidental to permitted or permissible uses and structures.
- C. Uses Permitted on Review: The following uses may be permitted on review by the governing body in accordance with the provisions contained 27-A.08.04.
- 1. Electrical receiving or transforming stations.
 - 2. Public utility substations, service yards, and pumping stations subject to 27-A.05.01(C).
 - 3. For any proposed business not having access to a commercial, industrial, or highway Service Street as permitted under Section B.
 - 4. Gasoline service and filling stations, and activities associated with filling stations when those activities are conducted entirely within an enclosed building, as regulated in 27-A.06.08;
 - 5. An accessory apartment. (See definition) The Use Permit will be subject to the following criteria: *(Added October 2015, Ordinance 1157)*
 - a) An accessory apartment would not be allowed as an accessory to eating or drinking establishments.
 - b) The accessory apartment would be required to have its own entrance and that apartment shall have to meet all fire and life safety codes
 - c) The commercial character of the structure must be maintained (e.g. all satellite dishes be roof mounted or mounted off of the façade)
 - d) The business **MUST** be opened within the first 6 months of the accessory apartment certificate of occupancy to meet the criteria of the Use Permit. The goal is to have a business in place if someone is living on the property and have commercial vacancies no longer than 6 months (including off-season use).
 - 6 Other uses similar in character to those enumerated above and which in the opinion of the governing body will not be injurious to the district.
- D. Uses Not Permitted. The following Groups, Occupancies, or Uses are expressly disallowed in the MXD-I district.
- 1. Structures over three (3) stories or sixty feet (60') average roof height;
 - 2. Manufactured homes;

3. Manufactured home parks;
4. Manufactured home sales, service and repair facilities;
5. RV parks, travel parks or campgrounds;
6. Self-storage facilities, except those provided in conjunction with approved residential uses;
7. Any open storage or fenced open storage for the storage, display, or sale of used, repossessed, or traded-in merchandise, including sand and gravel storage and sales.
8. Junk yards, salvage operations, or storage of wrecked, junked or inoperable vehicles or equipment.
9. Under no circumstances shall an adult oriented business be permitted in this district. [Ord. 1181, 8/29/17]

Ord 1172: 12/19/16

E. Area Regulations: The following requirements shall apply to all uses permitted in this district.

1. Front Yard: no structures shall be constructed closer than Twenty-five feet (25') from any property line abutting a street right-of-way. §Ordinance 1144, 9/2/14
2. Side Yard.
 - a) Side yard set backs shall be no less than ten feet (10') from the property line for any single-story structure including any side driveway or parking area thereof.
 - b) Side yard set backs shall be no less than twelve feet (12') from the property line for any two-story structure.
 - c) Side yard set back shall be no less than twenty-five feet (25') from the property line for any structure greater than two-stories in height.
3. Rear Yard.
 - a) Residential Structures; minimum twenty-five feet (25') from the rear property line.
 - b) Commercial Structure: minimum ten feet (10') from the rear property line. Where a commercial business is serviced from the rear there shall be adequate space provided for off-alley parking of delivery vehicles. §Ordinance 1144, 9/2/14

- 4. Lot Widths and Areas.
 - a) Lots for commercial uses shall have a minimum lot width at the front building line of not less than seventy-five feet (75'), and a lot area of not less than ten thousand (10,000) square feet, except for home occupations approved as a Use Permitted on Review in accordance with 27-A.08.04.
 - b) Lots utilized for multiple family dwellings shall have a minimum lot width at the front building line of not less than one hundred feet (100'), and a total area of six thousand (6,000) square feet plus an additional one thousand-five hundred (1,500) square feet for each dwelling unit.

5. Maximum Lot Coverage. (including all primary and accessory structures)

- a) Residential Uses: 30%
- b) Other Uses: 40%

- F. Off-Street Parking. As regulated in 27-A.06.05.
- G. Signs. As regulated in 27-A.06.07.
- H. Landscape requirements. As required in 27-A.06.01.

27-A.04.06. **Highway Service District (HS).** [Updated Ord. 1181, 8/29/17]

- A. General Description. This district is established for the accommodation of those herein specified retail and business service activities that typically may be located and grouped along a major street or about a major street intersection.
- B. Uses Permitted. The following uses shall be permitted in the Highway Service District:
 - 1. Motels;
 - 2. Restaurants and eating establishments, including drive-ins;
 - 3. Service stations and garages for running repairs as regulated in 27-A.06.08;
 - 4. Souvenir shops and curio shops;
 - 5. Building material sales;
 - 6. Garden centers, greenhouses, and nurseries;
 - 7. New and used car and truck sales;
 - 8. Farm implement and machinery, new and used sales;
 - 9. Financial institutions;
 - 10. Churches;

11. Trucks, trailers for hauling, rentals and sales, U-Haul types;
12. Motorcycle sales, repairs, and services;
13. Monument sales;
14. Animal hospitals, kennels, and any outdoor keeping of animals shall be subject to the following requirements:
 - a. Outdoor runs shall maintain a minimum setback of forty (40) feet from all property lines, and one hundred (100) feet from residential uses.
 - b. The clinic facility shall be constructed and operated in such a manner as to minimize the transmission of sound to neighboring properties.
 - c. Fenced outdoor runs and exercise areas shall be used only during normal business hours, and shall be screened in accordance with 27-A.06.01.
15. Sales of prefabricated and shell houses;
16. Auction houses;
17. Manufactured home sales and service;
18. Taxidermists;
19. Undertaking establishments and funeral home;
20. Outdoor advertising as regulated in 27-A.06.07;
21. Recreational uses such as amusement parks, bowling alleys, and ice and roller skating rinks;
22. Archery ranges, miniature golf courses, and other similar outdoor recreational uses;
23. Public parks;
24. Open storage uses which shall comply with the following provisions.
 - a. All open storage and display of merchandise, material and equipment shall be screened by a solid opaque fence a minimum of six feet (6') in height at the lot line which abuts any residential district. If this is not adequate to screen the view of storage and display, the zoning administrator is authorized to require additional landscaping or any other buffer technique.
 - b. If the open storage is the primary use of the lot, and not in association with a retail store, showroom, warehouse, commercial building, etc. on the same lot, a solid fence a minimum of six feet (6') in height shall be provided for all storage areas with the exception of lots where the primary use is the storage and parking of RV's and boats, in which case the fence is not required provided the RV's and boats being stored are not junked nor inoperable.

- c. All servicing of vehicles carried on as an incidental part of the sales operation shall be conducted within a completely enclosed building.
 - d. Driveways used for ingress and egress shall not exceed twenty-five feet (25') in width, exclusive of curb returns.
 - e. Outdoor lighting, when provided, shall have an arrangement of reflectors and an intensity of lighting which will not interfere with adjacent land uses or the use of adjacent streets, and shall not be of a flashing or intermittent type.
- 25. Manufactured home parks presently licensed by the City of Hot Springs will remain in the district until a change of use occurs.
 - 26. Any other store or shop for retail trade or for rendering personal, professional, or business service which does not produce noise, dust, odor, or vibration.
 - 27. Two family and multiple family dwellings.
 - 28. Tank storage of bulk oil and gasoline and the mixture of bulk storage of illuminating or heating gas, subject to the proper precautions as to location to prevent fire and explosion hazards.
 - 29. Small scale contractor operations.
 - 30. Other uses similar in character to those enumerated above and which in the opinion of the governing body will not be injurious to the district.

D. Uses Permitted on Review.

Uses similar in character to those enumerated above and which in the opinion of the governing body will not be injurious to the district may be permitted on review by the governing body in accordance with provisions contained in 27-A.08.04.

a. Adult Oriented Businesses

i. Definition of terms

- 1. **Adult arcade** - any place to which the public is permitted or invited and in which coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images involving specific sexual activities or specific anatomical areas to persons in booths or viewing rooms;
- 2. **Adult bookstore or video store** - a commercial establishment that offers for sale or rent any of the following as one of its principal business purposes: Books, magazines, periodicals, or other printed matter, photographs, films, motion pictures, videocassettes or reproductions or slides, or other visual representations that depict or describe specific sexual activities or specific anatomical areas; Instruments, devices, or

paraphernalia that are designed for use in connection with specific sexual activities;

3. **Adult cabaret** - any nightclub, bar, restaurant, or other similar commercial establishment that regularly features:
 - a. Persons who appear in a state of nudity or semi-nudity;
 - b. Live performances that are characterized by the exposure of specific anatomical areas or specific sexual activities;
 - c. Films, motion pictures, videocassettes, slides or other photographic reproductions that are characterized by the depiction or description of specific sexual activities or specific anatomical areas;
- a. **Adult motion picture theater** - a commercial establishment in which, for any form of consideration, films, motion pictures, videocassettes, slides, or other similar photographic reproductions that are characterized by the depiction or description of specific sexual activities or specific anatomical areas are predominantly shown;
- b. **Adult oriented business** - any adult arcade, adult bookstore or video store, adult cabaret, adult motion picture theater, adult theater, massage establishment that offers adult service, or nude model studios;
- c. **Adult theater** - a theater, concert hall, auditorium, or similar commercial establishment that predominantly features persons who appear in a state of nudity or who engage in live performances that are characterized by the exposure of specific anatomical areas or specific sexual activities;
- d. **Massage establishment** - an establishment in which a person, firm, association, or corporation engages in or permits massage activities, including any method of pressure on, friction against, stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of external soft parts of the body with the hands or with the aid of any mechanical apparatus or electrical apparatus or appliance. This subdivision *does not apply* to:
 - a. Physicians
 - b. Podiatrists
 - c. Registered nurses or licensed practical nurses
 - d. Physician assistants
 - e. Certified nurse practitioners and certified nurse midwives
 - f. Physical therapists
 - g. Athletic trainers
 - h. Massage therapists

i. Chiropractors

- i. **Nude model studio** - a place in which a person who appears in a state of nudity or who displays specific anatomical areas is observed, sketched, drawn, painted, sculptured, photographed, or otherwise depicted by other persons who pay money or other consideration. The term, nude model studio, does not include a proprietary school that is licensed by this state, a college, or a university that is supported entirely or in part by taxation, a private college or university that maintains and operates educational programs in which credits are transferable to a college or university that is supported entirely or in part by taxation or a structure to which the following apply:

- a. A sign is not visible from the exterior of the structure and no other advertising appears indicating that a nude person is available for viewing;
- b. A student must enroll at least three days in advance of a class in order to participate; and
- c. No more than one nude or seminude model is on the premises at any time;

- 11) **Place of worship** - a structure where persons regularly assemble for worship, ceremonies, rituals, and education relating to a particular form of religious belief and which a reasonable person would conclude is a place of worship by reason of design, signs, or architectural or other features;

- 12) **Residence** - a permanent dwelling place;

- b) Location of adult oriented business restricted--Violation as misdemeanor. No adult oriented business established after [EFFECTIVE DATE], may be located within one-fourth (1/4) mile of a child welfare agency, a private or public school, a public playground, a public recreational facility, a residence, or a place of worship. For the purposes of this section, measurements shall be made in a straight line in all directions, without regard to intervening structures or objects, from the nearest point on the property line of a parcel containing an adult oriented business to the nearest point on the property line of a parcel containing a child welfare agency, a private or public school, a public playground, a public recreational facility, a residence, or a place of worship. An adult oriented business lawfully operating in conformity with this section does not violate this section if a child welfare agency, a private or public school, a public playground, a public recreational facility, a residence, or a place of worship subsequently locates within

one-fourth (1/4) mile of the adult oriented business. A violation of this section is a Class 2 misdemeanor. Each day of violation constitutes a separate offense.

- c) Hours of operation of certain adult oriented businesses--Violation as misdemeanor. No adult arcade, adult bookstore or video store, adult cabaret, adult motion picture theater, adult theater, or nude model studio may remain open at any time between the hours of 2:00 a.m. and 8:00 a.m. on Monday through Saturday and between the hours of 2:00 a.m. and 12:00 noon on Sunday. A violation of this section is a Class 2 misdemeanor. Each day of violation constitutes a separate offense.
- d) Adult oriented uses are limited entirely to the Highway Service Zone
- e) Action to enjoin violations. If there is reason to believe that a violation of 27-A.04.06.C.1b) is being committed in any county or city, the state's attorney of the county shall, or a citizen of this state who resides in the county or city in the citizen's own name may, maintain an action to abate and prevent the violation and to enjoin perpetually any person who is committing the violation and the owner, lessee, or agent of the building or place in or on which the violation is occurring from directly or indirectly committing or permitting the violation.

E. Non-permitted use.

- 1. Under no circumstances shall manufactured homes or manufactured home parks be permitted in this district, with the exception that manufactured home may serve as a sales office in conjunction with a manufactured home sales and service establishment.
- 2. Under no circumstance shall vehicle or equipment repair facilities, private or public, operate salvage operations of vehicles or vehicle parts except as permitted in accordance with 27-A.05.01 (E).

F. Area Regulations. The following requirements shall apply to all uses permitted in this district.

- 1. Lot Area. There shall be a lot area of not less than ten thousand (10,000) square feet.
- 2. Side Yard. Distance to interior property lines shall be not less than ten feet (10'); where a commercial building is serviced from the side there shall be provided a distance of thirty feet (30') to the interior property line.

3. Front Yard. All lots fronting on an arterial street shall have a building setback of not less than thirty-five feet (35') from the lot line.
 4. Rear Yard. Each lot shall have a rear yard of not less than ten feet (10'); where a commercial building is serviced from the rear there shall be provided a rear yard of not less than thirty feet (30'); the depth of a rear yard which abuts a street or a residential district shall not be less than fifty feet (50').
 5. Lot Width. Each lot shall have a width at the front building line of not less than seventy-five feet (75').
 6. Maximum Lot Coverage. The maximum lot area which may be covered by a principal and accessory building shall not exceed forty percent (40%).
- G. Height Restrictions. No principal building or structure shall exceed three (3) stories or thirty-five feet (35') in height except as provided in 27-A.06.03. No accessory building or structure shall exceed one (1) story or twenty feet (20') in height.
- H. Off-Street Parking. 27-A.06.05.
- I. Screening and Landscaping. All yard areas required under this section and other yards and open spaces existing around buildings shall be landscaped and maintained in a neat condition as required in 27-A.06.01.

27-A.04.07. **General Industrial District. (GI)**

- A. General Description. The General Industrial District (GI) is established to provide areas in which the principal use of land is for light manufacturing and assembly plants, processing, storage, warehousing, wholesaling, and distribution in which operations are conducted so that noise, odor, dust, and glare are completely confined within an enclosed building.
- B. Uses Permitted. Property and buildings in the General Industrial District (GI) shall be used only for the following purposes.
1. A retail and service use only when it directly serves or is auxiliary to the needs of industrial plants or employees thereof.
 2. No residential use, except sleeping facilities required by a caretaker or night watchman employed on the premises shall be permitted in the General Industrial District (GI).
 3. Business signs as regulated in 27-A.06.07.

4. Building material sales yard and lumber yards, including the sale of rock, sand, gravel, and the like as an incidental part of the main business, but not including a concrete batch plant or a transit mix plant.
5. Contractor's equipment storage yard or plant, or rental of equipment commonly used by contractors.
6. Freighting or trucking yard or terminal.
7. Outdoor storage facilities for coal, coke, building materials, sand, gravel, stone, lumber; open storage or construction contractor's equipment and supplies shall be screened by a seven foot (7') obscuring fence, wall, or mass plantings, or otherwise so located as not to be obnoxious to the orderly appearance of the district.
8. Public utility substations, service yards and pumping stations, electrical receiving or transforming stations, subject to 27-A.05.01(C).
9. Auction house, except for sale of livestock.
10. Tire recapping or retreading.
11. The following uses when conducted within a completely enclosed building.
 - a. The manufacture, compounding, processing, packaging, or treatment of such products as bakery goods, candy, cosmetics, dairy products, drugs, perfumes, pharmaceuticals, perfumed toilet soap, toiletries, and food products.
 - b. The manufacture, compounding, assembling or treatment of articles of merchandise from the following previously prepared materials: aluminum, bone, cellophane, canvas, cloth, cork, feathers, felt, fur, glass, hair, horn, leather, paper, plastics, precious or semi-precious metals or stones, shell, rubber, textiles, tin, iron, steel, wood (excluding saw mill), yarn, and paint not involving a boiling process.
 - c. The manufacture of pottery and figurines or other similar ceramic products, using only previously pulverized clay, and kilns fired only by electricity or gas.
 - d. The manufacture and maintenance of electric and neon signs, commercial advertising structures, light sheet metal products, including heating and ventilating ducts and equipment, cornices, eaves and the like.

- e. The manufacture of musical instruments, toys, novelties, rubber, and metal stamps.
- f. Automobile assembling, painting, upholstering, rebuilding, reconditioning, body and fender works, truck repairing and overhauling, tire retreading or recapping, and battery manufacturing.
- g. The sale, storage, and sorting of junk, waste, discarded or salvaged materials, machinery or equipment, but not including processing.
- h. Blacksmith shop and machine shop.
- i. Foundry casting lightweight nonferrous metal not causing noxious fumes or odors.
- j. Planing mill.
- k. Wholesale or warehouse enterprise.

12. Buildings, structures, and uses accessory and customarily incidental to any of the above uses.

C. Uses Permitted on Review. All of the following uses are declared to be special uses and a use permit may be authorized by the governing body for the location and operation thereof in the General Industrial District (GI) in accordance with 27-A.08.04.

- 1. Acid manufacture;
- 2. blast furnace or coke oven;
- 3. cement, lime, gypsum, or plaster of paris manufacture;
- 4. distillation of bones;
- 5. drop forge industries manufacturing forging with power hammers;
- 6. explosives, manufacture or storage;
- 7. fat rendering, except as an incidental use;
- 8. fertilizer manufacture;
- 9. garbage, offal or dead animals reduction or dumping;
- 10. glue manufacture;
- 11. ore reduction;

12. paper and pulp manufacture;
13. Processing of junk (junk yard), waste, discarded or salvaged materials, machinery or equipment, including automobile wrecking or dismantling, as regulated in 27-A.05.01(E);
14. refuse dumps;
15. rock, sand, or gravel, or earth excavation, crushing, or distribution;
16. saw mill;
17. slaughter of animals including poultry killing or dressing;
18. smelting of tin, copper, zinc, or iron ores;
19. stockyards or feeding pens;
20. tannery or the curing or storage of raw hides;
21. acetylene gas manufacture or bulk storage;
22. business signs as regulated in Article V., Section 8;
23. alcohol manufacture;
24. ammonia, bleaching powder, or chlorine manufacture;
25. a retail or service use only when it serves directly or is auxiliary to the needs of industrial plants or employees thereof;
26. asphalt manufacture or refining;
27. boiler works;
28. brick, tile, or terra cotta manufacture;
29. chemical manufacture;
30. concrete or cement products manufacture;
31. freight, terminal (railroad);
32. iron, steel, brass, or copper foundry or fabrication plant;
33. paint, oil, shellac, turpentine, varnish, or enamel manufacture;
34. plastic manufacture;
35. power plant;

36. quarry or stone mill;
 37. railroad repair shops;
 38. rolling mill;
 39. soap manufacture;
 40. tar distillation or tar products manufacture;
 41. tank storage of bulk oil and gasoline and the mixture of bulk storage of illuminating or heating gas, subject to the proper precautions as to location to prevent fire and explosive hazards.
 - a. In general, those uses which may be obnoxious or offensive by the reason of emission or odor, dust, smoke, gas, noise, vibration, and the like and not allowed in any other district, provided, however, that any use not specified herein shall be approved by the governing body.
 - b. Buildings, structures, and uses accessory and customarily incidental to any of the above uses.
- E. Nonpermitted Use. Under no circumstances shall manufactured home or manufactured home parks be permitted in this district.
- F. Area Regulations. The following requirements shall apply to all uses permitted in this district.
1. Lot Area: Any principal use together with all accessory uses shall be located on a lot having a minimum area of twenty thousand (20,000) square feet.
 2. Front Yard: All buildings shall be set back from all street right-of-way lines not less than twenty-five feet (25').
 3. Side Yard.
 - a. No building shall be located closer than twenty-five feet (25') to a side yard lot line.
 - b. The width of a side yard which abuts a residential district shall be not less than fifty feet (50').
 4. Rear Yard.
 - a. No building shall be located closer than twenty-five feet (25') to the rear lot line.

- b. The depth of a rear yard which abuts on a residential district shall be not less than fifty feet (50').
- 5. Coverage. Main and accessory building and off-street parking and loading facilities shall not cover more than seventy-five percent (75%) of the lot area.
- G. Height Regulations. No building or structure shall exceed five (5) stories or sixty feet (60') in height, except as hereinafter provided in 27-A.06.03.
- H. Minimum Off-Street Parking and Loading Requirements. As regulated in 27-A.06.05.
- I. Screening and Landscaping. As regulated in 27-A.06.01.

27-A.04.08. **Greenway District (GD).**

This district is for the protection of drainage ways to permit the unimpeded flow of surface run-off without endangering life and health or causing property damage due to flooding and is regulated in accordance with Chapter 31 Flood Damage Control Ordinance.

27-A.04.09. **No Use District (NU).**

- A. General Description. This status is applicable to certain lands in which the construction of permanent structures is prohibited pending study and survey of the lands involved by the governing body. The status is a temporary designation for the purpose of permitting proper investigation and study of land uses in lands composing this status. The status shall be applied to newly annexed land area and lands re-zoned for business in which no development has occurred for a specified period after re-zoning.
- B. Newly Annexed Lands. All lands annexed by the City shall, upon annexation, be placed in a 'NU' status until the governing body has completed an investigation and study of proposed land use of the area. Upon the acceptance of a petition for annexation of an area to the City of Hot Springs by the governing body, the property owner of such area may request from the governing body an investigation and study of such area. In the event that an ordinance annexing an area has become effective without such investigation and study, the governing body shall investigate and take action within one hundred twenty (120) days after the effective date of the annexation. In no event shall lands newly annexed to the City be retained in 'NU' status for a period in excess of one (1) year from the effective date of annexation.
- C. Land Remaining Undeveloped for Two (2) Years after Business Re-zoning. Lands

rezoned for business use after the effective date hereof shall revert to 'NU' status in the event that within two (2) years from the effective date of such zoning:

1. Such land is not devoted to permitted uses; or
2. The construction of improvements for a permitted use has not been commenced as evidenced by the issuance of a building permit and construction pursuant thereto.

In the event that land for business use does not revert to 'NU' status two (2) years from the effective date of zoning issued for the construction of improvements on such land, and such building permit thereafter expires, such land shall revert to 'NU' status.

- D. Procedure on Reversion. As land reverts to 'NU' status, the governing body shall make an investigation and study of proper land use thereon and shall initiate action within sixty (60) days. In no event shall lands reverting to 'NU' status be retained in this status for a period in excess of one hundred eighty (180) days.
- E. Building Permits. Until an 'NU' District is zoned under this section the City shall not issue building permits in this district.

27-A.04.10. Golf Course District (MGC).

Central to the district is the municipal golf course lying within the district. Any use determined by the governing body to be appropriate to this district is permitted.

Source: Ord. 1032, 4/2008

27-A.04.11. **Golf Course Residential 'A' District (GCRA)**

- A. PURPOSE AND INTENT. The City of Hot Springs, recognizing the developer's intent to preserve the natural landscape and pristine vistas of the Southern Black Hills, embraces the concept of this experimental mountainous golf course subdivision. This concept maximizes the use of the natural topography, natural landscape, and natural drainages to reduce the human footprint in this development.

In keeping with the spirit of the City's Comprehensive Plan regarding land use, recreation, and housing development, and the goal of preserving the natural beauty of the forested hills, the following has been provided to achieve minimum impact construction and development while providing a reasonably safe living environment:

1. Reducing right-of-way widths to lessen the impact to the natural environment and lessening the need for extensive erosion and sediment control measures.
2. Utilizing a street design that reduces the need for curb and gutter, while at the same time providing improved storm water percolation to reduce storm water erosion.
3. Encouraging landowners to provide circle or turn-a-bout driveways in order to eliminate cul-de-sacs at closed-end streets, further reducing the paved footprint and reducing construction costs.
4. Eliminating the roadside sidewalk requirement due to the decreased population and housing density, thus avoiding the disruption of the natural landscape along the pristine roadways.

This district will provide for medium residential development density. The principal uses of land range from residences to uses which are functionally compatible with residential uses. Other related uses in keeping with the residential character of the district may be permitted on review by the governing body. Business, commercial and industrial uses are generally incompatible with the uses permitted in this district.

- B. Permitted Principal and Accessory Structures. Property and buildings in the Golf Course Residential "A" (GCRA) area shall be used only for the following purposes:
1. Single family dwellings .
 2. Two family dwellings, two family townhomes and two family condominiums;
 3. Temporary buildings for uses incidental to construction work, which buildings shall be immediately adjacent to said construction work and which buildings shall be removed upon completion or abandonment of the construction work;
 4. Transportation and utility easements, alleys, golf cart paths, pedestrian and non-motorized transportation paths, and right-of-ways;
 5. Accessory uses and buildings provided such uses are incidental to the principal use and do not include any activity commonly conducted as a business; any accessory building shall be located on the same lot with the principal building;
 6. Signs, as regulated in 27-A.06.07; and
 7. In ground swimming pools, pool houses and related structures, in the back yards only, as regulated by building codes.
- C. Uses Permitted On Review. The following may be permitted on review by the governing body in accordance with provisions contained in 27-A.08.04

1. Multiple family dwellings, townhomes and condominiums.
 2. Historical monuments or structures.
 3. Public utilities, substations, and pumping stations, subject to 27-A.05.01(C).
 4. Executive type golf courses, without clubhouses.
 5. Home occupations as regulated in 27-A.06.09.
 6. Day Care Facilities as regulated in 27-A.05.01(D).
 7. Foster homes.
 8. Satellite dishes greater than 24" in diameter.
 9. Towers or antennas.
 10. Unattached garages.
 11. Public parks, playgrounds and playfields, greenways and walkways, and municipal buildings and uses in keeping with the character and requirements of the district.
- D. Area Regulations. All buildings shall be set back from street right-of-way lines and lot lines to comply with the following line requirements.
1. Front Yard:
 - a. For single, two-family and multiple-family dwellings, the minimum depth of the front yard shall be twenty-five feet (25') and in no case shall an accessory building be located to extend into the front yard.
 - b. Other main and accessory buildings, other than dwellings, shall have a front setback of thirty-five feet (35').
 2. Side Yard: For single story dwellings, located on interior lots, and for unattached buildings or accessory uses, side yards shall be not less than fifteen feet (15') in width.
 3. Rear Yard: For all structures, there shall be a rear yard of not less than thirty-five feet (35').
 4. Lot Width.
 - a. For single family dwellings there shall be a minimum lot width of fifty feet (50') at the front building line.

- b. For two family dwellings there shall be a minimum lot width of seventy-five feet (75') at the front building line.
 - c. For multiple family dwellings there shall be a minimum lot width of one hundred feet (100') at the front building line.
 - 5. Intensity of Use.
 - a. For each single family dwelling and building accessory thereto, there shall be a lot area of not less than thirty-five hundredths (0.35) acre.
 - b. For each two family dwellings, two family townhome or two family condominium, there shall be a lot area of not less than forty-five hundredths (0.45) acre.
 - c. For multiple family structures, townhomes and condominiums, there shall be a lot area of not less than seven tenths (0.7) acre, and in no case shall there be less than two thousand (2,000) square feet of open space per dwelling unit, townhome unit or condominium unit.
 - d. For other main and accessory buildings, other than dwellings and buildings accessory to dwellings, the lot area shall be adequate to provide the yard areas required by this section and the off-street parking areas required in 27-A.06.05.
 - 6. Maximum Lot Coverage: Main and accessory buildings shall cover not more than thirty percent (30%) of the lot area.
- E. Usable Open Space. For multiple family structures there shall be usable open space provided for each dwelling unit of less than thirteen hundred (1,300) square feet. Open space does not include drives, parking, and service areas.
- F. Height Regulation. No main building shall exceed two (2) stories or thirty five feet (35') in height, except that no structure fronting on the golf course shall exceed one (1) story in height except as provided in 27-A.06.03.
- G. Off-Street Parking. As regulated in 27-A.06.05.

Source: Ord. 1032, 4/2008

27-A.04.12. Golf Course Commercial District (GCC)

- A. General Description. Central to this district is the municipal golf course lying within, adjacent to, or near the district. This golf course commercial district is for limited

personal and business services and general business activity.

- B. Uses Permitted. The following uses shall be permitted in the Golf Course Commercial District.
1. Eating and drinking establishments, but not including drive-in establishments.
 2. Hotels, motels, and if located in or as a part of such hotel or motel, such businesses as may commonly be found in hotels or motels, such as barber/beauty shops, gift shops, swimming, exercise and spa facilities open to patrons and non-patrons of such hotel or motel.
 3. Lodges and bed & breakfast establishments, and if located in or as a part of such lodge or bed & breakfast establishment, gift shops, swimming, exercise and spa facilities open to patrons and non-patrons of such lodge or bed & breakfast facility.
 4. Parking lots.
 5. Temporary buildings for uses incidental to construction work, which buildings shall be immediately adjacent to said construction work and which buildings shall be removed upon completion or abandonment of the construction work.
 6. Transportation and utility easements, alleys, golf cart paths, pedestrian and non-motorized transportation paths, and right-of-ways.
 7. On the same premises, and in connection with permitted principal uses and structures, other uses and structures which are customarily accessory and clearly incidental to permitted or permissible uses and structures.
 8. Dwelling units in multi-storied structures wherein the street or ground floor level is occupied by one of the permitted retail or business services enumerated above.
- C. Uses Permitted On Review. Uses similar in character to those enumerated above and which in the opinion of the governing body will not be injurious to the district may be permitted on review by the governing body in accordance with provisions contained in 27-A.08.04.
- D. Non-permitted Uses . Under no circumstances shall manufactured homes or manufactured home parks be permitted in this district.
- E. Area Regulations. The following requirements shall apply to all uses permitted in this district.

1. Front Yard: None.
 2. Side Yard: No side yard is required except that the width of a side yard which abuts a residential district shall be not less than twenty-five feet (25').
 3. Rear Yard: Where a commercial building is to be serviced from the rear, there shall be provided an alleyway, service court, rear yard, or combination thereof of not less than thirty feet (30') in depth. The depth of a rear yard which abuts a residential district shall be not less than fifteen feet (15'). In all other cases, no rear yard is required.
 4. Maximum Lot coverage. Main and accessory buildings shall cover not more than eighty percent (80%) of the lot area.
- F. Height Regulations. No building or structure shall exceed five (5) stories or sixty feet (60') in height except as provided in 27-A.06.03.
- G. Off-Street Parking. As regulated in 27-A.06.05.
- H. Landscape requirements. As regulated in 27-A.06.01

Source: Ord. 1032, 4/2008

27-A.05. Other Uses Permitted on Review.

In order to accomplish the general purpose of this ordinance, it is necessary to give special consideration to certain uses because they are unique in nature, require large land areas and or are potentially incompatible with existing development. These uses may be considered by the governing body through the procedure provided in 27-A.08.04.

27-A.05.01. Other Uses Permitted On Review

- A. Cemetery.
 - a. The site proposed for a cemetery shall not interfere with the development of a system of collector and larger streets in the vicinity of such site. In addition, such site shall have direct access to a thoroughfare.
 - b. Any new cemetery shall be located on a site containing not less than twenty (20) acres.
 - c. All other structures including but not limited to mausoleum permanent monument or maintenance building, shall be set back not less than twenty-five feet (25') from any property line or street right-of-way line.
 - d. All graves or burial lots shall be set back not less than twenty-five feet (25') from

any property line or street right-of-way line.

e. All required yards shall be landscaped and maintained.

B. Drive-in Theater.

a. The site must have direct access to a major public road.

b. In addition to the required setbacks from streets and highways, all yards shall be planted and maintained as a landscaped strip.

c. The theater screen shall not be visible from any public street within fifteen hundred feet (1500'). In addition, cars parked in the viewing area shall be screened on all sides by a wall, fence, or densely planted evergreen hedge not less than six feet (6') in height.

d. Loading space for patrons waiting admission to the theater shall be equal to twenty percent (20%) of the capacity, be separated, and internal circulation shall be laid out to provide one-way traffic.

e. Sale of refreshments shall be limited to patrons of the theater.

f. No central loudspeakers shall be permitted.

g. All parking areas and access ways shall be adequately lighted, provided however, that such lighting shall be shielded to prevent any glare or reflection onto a public street or onto neighboring properties.

h. Amusement parks or kiddielands shall be limited to patrons of the theater.

i. The connecting driveways shall be surfaced with permanent paving, maintained in good condition and free of all weeds, dust, trash, and other debris.

C. Public and Private Utilities and Services. Where permitted public and private utilities and services shall be subject to the following requirements.

a. Health Department Report. Application for permission to operate water works and/or sewage treatment plants shall be accompanied by a report and a recommendation from the South Dakota Department of Health. Such recommendations as to design and construction, type of treatment, source of water, standards for testing and sampling, and standards for the quality of effluent shall be incorporated into and made a part of the application.

b. Lot Area and Location. The required lot area and location shall be specified as part of the application and shall be determined in relation to the proposed use,

the intensity of such use, and the effects of such use upon the environment.

- c. Fencing and/or Screening. Where findings indicate that a hazard may result or that interference with the development or use and enjoyment of surrounding residential properties may ensue, fencing or screening with an evergreen hedge or other shielding material may be required in a manner consistent with such findings.
- d. Public Utilities Service Yards. Shall be screened by a seven foot (7') obscuring fence, wall, or mass planting, or otherwise so located as not to be obnoxious to the orderly appearance of the district.

D. Day Care Facilities.

The facilities, operation, and maintenance shall meet the requirements of SDCL 26-6 regulating day care facilities and local zoning regulations.

E. Automobile Wrecking and Junk Yards.

- 1. Location. No such operation shall be permitted closer than three hundred feet (300') from any established residential district.
- 2. Screening. All outdoor storage of salvage and wrecking operations shall be conducted entirely within an enclosed opaque fence or wall excepting driveway areas, having a minimum height of eight feet (8'). Storage between the street and such fence is expressly prohibited. Any fence or wall erected for screening purposes shall be within the buildable area of the lot and shall be properly painted or otherwise maintained in good condition.
- 3. Off-Street Parking. As regulated in 27-A.06.05.
- 4. Ingress and Egress. The number of vehicular access driveways permitted on any single street frontage should be limited to:
 - 5. One (1) driveway where the parcel to be used has a maximum street frontage of one hundred feet (100') or less.
 - 6. Two (2) driveways where the street frontage exceeds one hundred feet (100').
 - 7. Driveways used for ingress and egress shall be limited to twenty-five feet (25') in width, exclusive of curb returns.

F. Recreational Fads. An application for a permit for recreational fads including trampoline centers, cart tracks, roller rinks, amusement parks and similar recreational activities not specifically covered by these regulations, shall be reviewed by the governing body as

regulated in 27-A.08.04

G. Recreational Vehicle (RV) Parks.

1. RV parks will be allowed only with the approval of the Common Council as provided in 27-A.08.04.
2. RV parks will be inspected and licensed annually and a fee will be charged.
3. An application for an RV park use permit shall be made as follows:

Application for a permit shall be made on a form provided by the City and submitted to the Zoning Administrator. Each application shall be accompanied by three (3) copies of the plan drawn to scale. The application for a permit shall be accompanied by a minimum fee of twenty-five dollars (\$25) plus one dollar (\$1) for every ten (10) spaces. The following information shall be shown on the application:

- a. name and address of the applicant;
- b. location and legal description of the proposed RV park;
- c. plans and specifications of all buildings, improvements, facilities, and spaces constructed or to be constructed within the RV park;
- d. proposed use of buildings and spaces shown on the site;
- e. the location and size of all recreational vehicle spaces;
- f. location of all points of entry and exit for motor vehicles and internal circulation pattern;
- g. the location of all screening and landscaping to be provided;
- h. the location of all outdoor lighting to be provided;
- i. location of all walls and fences indicating height and materials of construction.
- j. location of sewage dump station(s) and garbage receptacles;
- k. preliminary approval of planned outdoor fireplace settings;
- l. such other architectural and engineering data as may be required to permit the City to determine if the provisions of this article are being complied with.

Such permit may be issued prior to construction or completion thereof provided that a time schedule for development shall be prepared, which shall demonstrate the applicant's readiness and ability to provide the proposed services and all required improvements and facilities shall be installed within one (1) year. Use Permit will be subject to all remedies provided by 27-A.08.04.

H. Manufactured home subdivisions.

The following development standards shall apply for all *new* manufactured home subdivisions, which shall be approved as a development permitted on review:

1. Minimum area of manufactured home subdivision. Manufactured home subdivisions shall comply with manufactured home subdivision standards. No subdivision shall be allowed to open on less than two (2) acres.

Exception: Existing mobile home parks shall be subject to the regulations in place prior to the adoption of this ordinance and shall fall under 27-A.07 Non-conforming Uses.

2. Only manufactured homes shall be permitted, except for additions and accessory structures which may be constructed on-site.
3. Minimum lot size: Six thousand (6,000) square feet, exclusive of public street rights-of-way and private street easements.
4. Street standards.
 - a. Public streets shall meet minimum standards of the subdivision ordinance or, in the case of private streets, standards established by the city council in the approval process.
 - b. Cul-de-sac roads shall have a maximum length of three hundred (300) feet and a minimum turnaround of forty-foot radius.
 - c. Be accessible at all times to fire department, ambulance, police, sanitation and utility vehicles.
5. Street lighting. The developer shall furnish and install street lights in accordance with City requirements. On private streets, lights shall be operated and maintained by the developer.
6. Fencing and screening. As required in 27-A.06.01.
7. Shade trees. The developer shall plant shade trees on the property. A minimum of one (1) tree with a minimum trunk diameter of not less than one (1) inch shall be planted on each manufactured home lot.
8. Drainage and storm sewers. Per Chapter 32.

9. Water/sewer facilities. Per Chapter 26.
10. Utilities. Per state and local requirements.
11. Recreation areas. A park and recreation area shall be provided having a minimum of one hundred fifty (150) square feet for each manufactured home site, consolidated into usable space.
12. Storage sheds. Total square footage not to exceed one-hundred ninety two square feet (192 sq/ft), exclusive of attached or detached garages or carports.
13. Lot width. Minimum fifty (50) feet at the front building line. May be average of fifty (50) feet if the lot abuts a street for a minimum of thirty (30) feet.
14. Perimeter setbacks.
 - a. Twenty-five-foot (25') perimeter setback from all public rights-of-way
 - b. Any perimeter yard abutting a residential district shall maintain a ten foot (10)' setback
 - c. All perimeter setbacks shall be maintained and landscaped.
15. Required setbacks from lot and property lines.
 - a. Twenty-five feet (25') from all road rights-of-way within the manufactured home subdivision
 - b. Rear yard-Twenty-five feet (25')
 - c. Side yard- Ten feet (10')
 - d. Accessory structures- Eight feet (8'), side and rear
16. As regulated in 27-A.06.05.
17. Storage space. The manufactured home subdivision shall provide a paved storage area for boats, campers, R.V's, etc., for use only by tenants. The number of spaces within this area shall be equal to one (1) space for every five (5) manufactured homes sites. Each space shall be ten feet (10') by twenty-five feet (25').
18. Securing and skirting. All manufactured homes and accessory structures shall be securely anchored to the ground, at intervals approved by the building official. Manufactured homes, once in their permanent location upon the lot, shall be fully skirted within forty-five (45) days.
19. Garages, Carports and additions to manufactured homes. Building permits shall be required for all garages, carports and additions, which shall meet all setback requirements. No additions or structures erected shall have a height greater than the height of the manufactured home to which it is attached; and shall be supported by a foundation approved by the building official.

20. Signs.
 - a. The developer shall install, in accordance with standards of the city, all road and street name signs.
 - b. Each manufactured home park shall be permitted to display, on each frontage, one (1) identifying sign of maximum size of twenty-five (25) square feet.
21. A bond or other guarantee may be required by the City Council to assure completion of all requirements within this section.
22. General provisions.
 - a. Sidewalks from the paved driveway to the main entry of the manufactured home shall be a minimum of thirty-six (36) inches in width.
 - b. Each manufactured home shall have an address of three-inch high letters mounted on the side fronting the street.
 - c. Each manufactured home space shall be clearly defined by permanent markers.
 - d. Each manufactured home space shall be serviced by the public water and sewer system and shall be individually metered. Manufactured homes that cannot be connected to the public water and sewer system shall not be permitted.
 - e. Manufactured homes shall not be used for commercial, industrial or other nonresidential uses, except home occupations as defined in 27-A.06.09 and permitted as a use permitted on review per 27-A.08.04.
23. Subdivision application requirements. The application shall be accompanied by three (3) copies of the plot plan drawn to scale, and prepared by a licensed engineer or architect. The following information shall be shown:
 - a. The name and address of the applicant.
 - b. The location and legal description of the proposed manufactured home subdivision.
 - c. Plans and specifications of all buildings, improvements and facilities constructed or to be constructed within the manufactured home subdivision.
 - d. The proposed use of buildings shown on the site.

- e. The location and size of all manufactured home spaces.
- f. The location of all points of ingress and egress and internal traffic circulation pattern.
- g. A landscaping plan.
- h. The location of all lighting standards to be provided.
- i. The location of all walls and fences, the indication of their height, and the materials of their construction.
- j. Such other architectural and engineering data as may be required to permit the Zoning Administrator and the Common Council to determine if the provisions of this ordinance are being complied with.
- k. An estimated timetable for project development.

Source: Ordinance 1156: 10/2015

27-A.06. Supplementary Regulations Applying to a Specific, to Several, or to All Districts.

Purpose: The purpose of this section is to provide good visual appeal to buildings and paved areas through the use of trees, shrubs and plants, to encourage areas of established native forest to be reserved within a project/development site and to properly protect preserved areas during construction, to buffer non-complimentary land use and to require timely replacement of landscape components lost after construction.

27-A.06.01. Landscape requirements, aesthetic barriers and screening requirements.

- A. Whenever property in one (1) zoning category abuts property of a more restrictive zoning category (Residential 'A' being the most restrictive) and the property in the less restrictive category is being developed, the Zoning Administrator may require, as a condition of the building permit, such barriers be constructed by the developer as are deemed necessary and appropriate for the protection of the more restrictive area. Such devices may include fences, hedges, traffic controls and patterns or any other device reasonably necessary to attain the goals sought
- B. No lane, road, avenue, street or platted street or right-of-way shall be accessed through any privately owned property or by any subdivision or development except where that access has been reviewed by the Commission and accepted by the City as a deeded or

platted access, and in no case shall any lane, road, avenue or street receive traffic flow greater than its intent and design.

- C. Landscaping, as required herein, shall be provided for all multi-family residential, civic, church, office, commercial, and industrial construction within the jurisdiction of the City of Hot Springs. Landscaping shall also be provided for any addition to an existing multi-family residential, civic, church, office, commercial, or industrial use if the proposed addition or use increases the size or occupant load of the existing structure.

Requirements are as follows:

- 1 Application: Landscaping consisting of trees, shrubs, ground cover, flowers and screening as deemed applicable shall be required for any new construction or expansion of existing uses. Hereafter, all plans submitted in support of a building permit shall include a landscape plan and include screening where appropriate.
- 2 Information Required: All plans submitted for approval of a landscape plan shall have the following information included:
 - a. North point and scale.
 - b. The location, size and surface of materials of all structures and parking areas.
 - c. Topographic information and final grading adequate to identify and properly specify planting for areas needing slope protection.
 - d. The location, size and type of all above ground and underground utilities and structures within property notation, where appropriate, as to any safety hazards to avoid during landscape installation. Landscaping shall not interfere with above or below ground utilities or sewer systems. Landscaping shall be located to ensure long term growth.
 - e. Complete and accurate botanical and common names of each plant material, the number and location of trees or plants to be placed, the size of planting and areas to receive seed or sod.
 - f. Mature sizes of plant material shall be drawn to scale and called out on plan by common name of appropriate key.
 - g. Location of hose connections and other water sources.
 - h. Any proposed retaining walls, indicating location, size and material to be used in the construction of the wall.

- i. The location, size and type of required screening methods required as follows:
 - I All plans submitted in support of a building permit or Use Permit shall include a detailed drawing of applicable screening methods. Such drawings may be included as part of the Landscape Plan. Any buffer or screening requirement located on an adjacent property may be utilized as a portion of a required buffer or screen.
 - II Commercial Trash Bin Screening. All multi-family residential projects, mobile home parks, civic, church and all commercial, office and industrial project shall be included on the landscape plan with a detailed drawing of enclosure and screening methods to be used in connection with trash bin(s), storage yards, parking lots and equipment areas on the property. No trash bin shall be visible from the street, and a permanent masonry or frame enclosure shall be provided for each such bin.
 - III Screening Requirements shall be in compliance with 27-A.06.01(I).
- D. Screening Standards. A screen shall consist of a screen wall, fence, earth berm or densely planted evergreen to effectively restrict the view to adjoining property to a height of not less than eight (8) feet. Multi-story buildings must have in addition to a sight proof fence, a continuous row of deciduous canopy trees adjacent to residential land uses.
- E. Existing Screening. No existing screening or landscape buffer shall be removed from any developed or undeveloped commercial property, which directly abuts a residentially zoned property, without first submitting and obtaining approval for a landscaping plan, which plan provides for replacement screening conforming to all provisions of this Section.

27-A.06.02. Permitted Accessory Structures and Uses.

- A. Accessory Uses. The uses of land, buildings, and other structures permitted in each of the districts established by this ordinance are designated by listing the principal uses permitted. In addition to such principal uses, this section shall regulate uses customarily incidental to any principal use permitted in the district.
- B. General Provisions. Each permitted accessory use shall:

1. be customarily incidental to the principal use established on the same lot;
 2. be subordinate to and serve such principal use;
 3. be subordinate in area, extent and purpose to such principal use;
 4. contribute to the comfort, convenience, or necessity of users of such principal use.
- C. Accessory uses shall be permitted as specified above. Such accessory uses shall be applicable to the principal use, shall conform to applicable set-back requirements, and shall include but not be limited to the following.
1. For dwellings -
 - a. shelter to house animal pets, but not exceeding two (2) shelters per dwelling, the total square foot area not to exceed thirty-two square feet (32 sf);
 - b. children's playhouse and playground equipment;
 - c. private greenhouse, vegetable, fruit, or flower garden, from which no products are sold or offered for sale;
 - d. private garage or carport;
 - e. private swimming pool and bathhouse;
 - f. shed for the storage of maintenance or recreation equipment used on the premises, total square footage of storage not to exceed 192 square feet;
 2. For church, chapel, temple or synagogue -
 - a. parish house or residence for the clergyman of the congregation;
 - b. religious education building;
 - c. Other accessory uses which in the opinion of the governing body will not be injurious to the district may be permitted as a Use Permitted on Review.
 3. For education institutions -
 - a. convent or lay teacher=s quarters;
 - b. dormitories;

- c. power or heating plants;
 - d. stadiums, gymnasiums, field houses, game courts or fields.
 - e. Other accessory uses which in the opinion of the governing body will not be injurious to the district may be permitted as a Use Permitted on Review.
4. For golf and country clubs -
- a. dwelling for caretaker;
 - b. maintenance equipment storage shed;
 - c. pro shop;
 - d. lounge and dining area.
 - e. Other accessory uses which in the opinion of the governing body will not be injurious to the district may be permitted as a Use Permitted on Review
5. For hospitals and health institutions -
- a. staff quarters;
 - b. laundry, incidental to the principal use only;
 - c. medical and nursing instruction;
 - d. chapel
 - e. Other accessory uses which in the opinion of the governing body will not be injurious to the district may be permitted as a Use Permitted on Review.
6. For industrial uses in the industrial districts -
- a. offices;
 - b. restaurants or cafeterias;
 - c. first aid clinics or dispensaries;
 - d. watchmen's quarters;
 - e. research or pilot structures.
 - f. Other accessory uses which in the opinion of the governing body will

not be injurious to the district may be permitted as a Use Permitted on Review.

27-A.06.03. Height. The following requirements are intended to provide exceptions of quality and supplement, as the case may be, the specific district regulations set forth in 27-A.04.

- A. In measuring heights, a walk-out basement or habitable attic shall be counted as a half story.

- B. The following structures or parts thereof are hereby exempt from the height limitations set forth in the zoning districts.
 - 1. Agricultural buildings - barns, silos, windmills, but not including dwellings.
 - 2. Chimneys, smokestacks, penthouses, flagpoles, ventilators, skylights, derricks, conveyors, and cooling towers.
 - 3. Radio and television antennae and towers, observation towers, and power transmission towers.
 - 4. Water tanks and standpipes.
 - 5. Other similar and necessary mechanical appurtenances pertaining to and necessary to the permitted uses of the districts, in which they are located, provided that they are not used for human occupancy.

- C. Churches, schools, hospitals, sanatoriums, and other public and semi-public buildings may exceed the height limitations of the district if the minimum depth of the front, side, and rear yards required in the district is increased one foot (1') for each two feet (2') by which the height of such public and semi-public structure exceeds the prescribed height limit.

27-A.06.04. Yard and Building Setback and Open Space Exceptions. The following requirements are intended to provide exceptions or qualify and supplement, as the case may be, the specific district regulations set forth in 27-A.04.

- A. No yard, open space, or lot area required for a building or structure shall, during its life, be occupied by any other building or structure except:
 - 1. awnings, arbors and canopies encroachment not to exceed six feet (6');
 - 2. bay windows and chimneys, not to exceed two feet (2');
 - 3. driveways, curbs, and sidewalks;

4. fences, walls, and hedges, subject to the regulations as set forth in this section;
5. flagpoles, light poles, mail boxes and similar miscellaneous placements;
6. garbage disposal equipment, nonpermanent;
7. landscape features, planting boxes;
8. overhanging roof, eave, gutter, cornice, or other architectural features, not to exceed three feet (3');
9. parking space subject to the regulations set forth in 27-A.06.05;
10. signs, subject to the regulations set forth in 27-A.06.07;
11. covered steps, stoops, ramps, porches, decks, patios, or terraces provided the total footprint of such structure(s) is not greater than sixty (60) square feet in area, is not enclosed, and does not encroach into the required yard (set back area) more than six feet (6');
12. trees, shrubs, flowers, and other plants subject to the vision requirements in this section.

B. The following regulations provide for the maximum safety of persons using sidewalks and streets, and for the maximum enjoyment of the use of property.

1. On any corner lot where a front and side yard is required, no wall, vehicle, fence, sign, structure, or any plant growth which materially obstructs sight lines at elevations between two and one-half feet (2½') and ten feet (10') above the crown of the adjacent roadway shall be placed or maintained within a triangle formed by measuring from the point of intersection of the front and exterior side lot lines a distance of twenty-five feet (25') along the front and side lot lines and connecting the point so established to form a slight triangle on the area of the lot adjacent to the street intersections.
2. In any required front yard, except as provided in (1) above, no fence, wall, hedge or yard ornament shall be permitted which materially impedes vision across such yard above the height of three and one-half feet (3½').
3. Sound and safety barriers in the form of shrubbery, landscaping, opaque fences or walls along lot lines adjoining the rights-of-way of major or minor arterial streets with controlled intersections may be approved as a Use Permitted On Review in accordance with 27-A.08.04. The fee for the Use Permit hearing shall be waived where a property owner is seeking a Use Permit for a sound and

safety barrier which is in existence at the time that this ordinance is enacted.

C. The purpose here is to clarify certain conditions pertaining to the use of lots and access points.

1. In residential districts, if twenty-five percent (25%) or more of the lots on one side of the street between two intersecting streets are improved with buildings all of which have observed an average setback line of greater than five feet (5') from this average setback line, then no building shall be erected closer to the street line than the minimum setback so established by the existing buildings; but, this regulation shall not require a front yard of a greater depth than fifty feet (50').
2. In a residential district, if fifty percent (50%) or more of the lots on one side of the street between two intersecting streets are improved with buildings all of which have observed an average setback of less than twenty-five feet (25') and no building line varies more than five feet (5') from this average setback line, then a building may be erected observing the average setback so established.
3. Lots having frontage on more than one street shall provide the required front yards along those streets.
4. Division of a Lot.
 - a. No recorded lot shall be divided into two or more lots unless such division results in the creation of lots each of which conform to all of the applicable regulations of the district in which the property is located. No reduction in the size of a recorded lot below the minimum requirements of this ordinance shall be permitted. All subdivided property must be recorded on a new plat map according to procedure outlined in the Subdivision Ordinance of the City of Hot Springs.
 - b. No structure shall be constructed so as to be built on top of, or to extend over, platted property lines. Structures shall be required to comply with the set back requirements from property lines for the district in which they are located.
 - c. No structure shall be constructed on any vacated street or alley without such vacated street or alley having been recorded on a new plat map and recorded in the Fall River County Register of Deeds office.
 - d. Municipal utilities serving a property shall enter that property directly from the right-of-way or easement containing those municipal utilities,

except where a legal utility easement has been provided for those utility services to cross separately platted properties.

5. Dwellings on Small Lots - Where there are existing recorded lots which do not meet the minimum lot area requirement and are under separate ownership. Single family dwellings may be constructed as long as a side yard shall be not less than four feet (4') and the sum of the side yards shall be not less than twelve feet (12') and as long as all other requirements, except lot size, are met.
6. Principal Uses without Building. Where a permitted use of land involves no structures, such use, excluding agricultural uses, shall nonetheless comply with all yards and minimum lot area requirements applicable to the district in which located, as well as obtain any other license or permit applicable to that particular use.
7. Where the dedicated street right-of-way is less than fifty feet (50'), the depth of the front yard shall be measured starting at a point twenty-five feet (25') from the center line of the street easement.
8. No dwelling shall be erected on a lot which does not abut on at least one street for at least thirty feet (30'). A street shall form the direct and primary means of ingress and egress for all dwelling units. Alleys, where they exist, shall form only a secondary means of ingress and egress. A garage apartment may be built to the rear of a main building if all other provisions of this ordinance are complied with and the apartment dwelling complies with all applicable building codes.
9. An attached or detached private garage which faces on a street shall not be located closer than twenty-five feet (25') to the street right-of-way line, except that on any corner lot where an existing primary structure does not meet the setback requirements of the district, a private garage may be constructed to conform to the lines of the main structure provided:
 - a. the approval of the building permit substantially adheres to the purpose and intent of the zoning ordinance and,
 - b. the proposed structure is not closer than four feet (4') to any interior lot line and,
 - c. the proposed structure meets with all other requirements of the district.
10. Accessory buildings shall not be located in any required front yard.

27-A.06.05. Minimum Off-Street Parking Requirements.

A. Off-Street Parking Requirements, General.

In all districts, except the General Commercial (GC) District, there shall be provided at any time any building or structure is erected or enlarged or increased in capacity, off-street parking space for automobiles in accordance with the following requirements.

1. Off-street parking for other than residential use shall be either on the same lot or within two hundred feet (200') of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking lot, without crossing any major thoroughfare;
 - a. In all districts except General Commercial (the GC) shall establish joint parking facilities where possible, not to exceed fifty percent (50%) of the required spaces, with institutions and agencies that does not have a time conflict in parking demand. The joint parking facilities shall be located no further than four hundred feet (400') from the facilities' entrances.
 - b. In cases of shared off-street parking where operating hours do not overlap, the Zoning Administrator may grant an exception when the applicant can show no negative impact to the surrounding neighborhood.
2. Residential off-street parking space shall consist of:
 - a. a parking lot, driveway, garage, or combination thereof and shall be located on the lot they are intended to serve.
 - b. adequate provisions for the off-street parking of any RV, camper, trailer, boat or other seasonal recreation vehicle that are in the ownership or possession of the occupant(s) of the building, dwelling, or property.
3. Any area once designated as required off-street parking shall not be changed to any other use unless and until equal facilities are provided elsewhere.
4. Off-street parking existing on the effective date of this ordinance in connection with the operation of an existing building or use shall not be reduced to an amount less than hereinafter required for a similar new building or use.

5. Two or more buildings or uses may collectively provide the required off-street parking, in which case the required number of parking spaces shall be not less than the sum of the requirements for the several individual uses computed separately.
6. The required off-street parking shall be for occupants, employees, visitors and patrons and shall be limited in use to motor vehicles. The storage of merchandise, motor vehicles for sale, or the repair of vehicles on such parking area is prohibited.
7. Every company car, truck, tractor and trailer normally stored at the property shall be provided with an off-street parking space in an area reserved for the use as determined by the governing body.
8. For uses not specifically mentioned herein, off-street parking requirements shall be interpreted by the Zoning Administrator.
9. The minimum number of off-street parking spaces shall be determined in accordance with the following.
 - a. Dwellings, one-family and two-family: Two (2) spaces per dwelling unit.
 - b. Dwellings, multi-family: 2.25 spaces per dwelling unit except for senior citizens housing which shall provide 1.5 spaces per unit.
 - c. Hotels, motels, rooming houses, bed and breakfast establishments: One (1) space per guest room.
 - d. Manufactured home subdivision: Two (2) spaces per manufactured home.
 - e. Nursing homes, long-term care facilities: One (1) space per four (4) beds.
 - f. Theaters, auditoriums, gymnasiums: One (1) space per three (3) seats. Convention facilities: One (1) space per fifteen (15) square feet of assembly area. Multiple-screen theater: One (1) space per five (5) seats.
 - g. Churches: One (1) space per four (4) seats.
 - h. Funeral homes: One (1) space per four (4) seats.
 - i. Schools, elementary: Two (2) spaces per classroom.
 - j. Schools, other than elementary: Ten (10) spaces per classroom.

- k. Restaurants, on-sale liquor establishments: One (1) space per one hundred (100) square feet of gross floor area.
- l. Private and public utility substations, commercial storage units. No parking requirements except that all areas of ingress/ egress and loading/unloading/ storage shall be hard surfaced.
- m. Health clinics: Single practitioner clinics one (1) space per three hundred (300) square feet of gross floor area; multiple practitioner clinics one (1) space per two hundred (200) square feet of gross floor area.
- n. Industrial and manufacturing establishments: One (1) space per four hundred (400) square feet of gross floor area.
- o. Warehouses shall provide one (1) parking space per one thousand (1,000) square feet of gross floor area plus one (1) parking space per employee.
- p. Group care homes/assisted living and congregate care facilities: One (1) space for each three (3) residents, one (1) handicapped space, and one (1) space for each employee on the most fully staffed shift.
- q. Office buildings for general business, commercial and personal service establishments: One (1) space per two hundred (200) square feet of gross retail floor area.
- r. Buildings for retail trade: One (1) space per three hundred (300) square feet of gross retail space.
- s. Drive-up windows: Driveways for drive-up service windows shall be of sufficient length to accommodate the stacking of three vehicles.
- t. Sports and recreation facilities:
 - I. Golf course. Six (6) spaces per hole.
 - II. Baseball/softball/soccer. Thirty-six (36) spaces per field.
 - III. Tennis court. Four (4) spaces per court.
 - IV. Swimming pool/water park. As per a parking plan approved by the City Council.
 - V. Bowling alley. Four (4) spaces per lane.
- u. Fire/ambulance facilities: Fire, four (4) spaces per bay; ambulance, three

(3) spaces per bay.

- v. New and used vehicle and equipment sales: All areas used for parking, staging, storage and display shall be paved.
- w. Manufactured home sales: Based on standard requirements for permanent structures and sales offices.

Off-Street Parking (Driveways and Parking Lots) Construction

B. For all new construction - Driveways or entrances devoted to or utilized for the vehicular path of ingress or egress to a place, and all areas devoted to or utilized for the parking or display of vehicles or equipment, and areas regularly utilized by employees, customers, patrons, or members for parking or for accessing parking areas, shall be constructed and maintained in accordance with the following regulations.

1. All areas devoted to permanent off-street parking as required under this section shall be constructed of a hard surface material such as asphalt or concrete and maintained in such a manner that no dust will result from continuous use. A Paving Plan shall be submitted to the Building Official which shall include:
 - a. A clear and concise site plan of the property including all existing buildings.
 - b. The site plan shall include the names of the owners and their contact information, name of the business, address, and legal description of the property.
 - c. All areas of vehicular ingress/egress, travel paths and parking areas, with dimensioning.
 - d. Proposed drainage areas and storm water control devices.
 - e. Proposed areas to be paved to comply with paving requirements shown in construction details and landscaped areas for stormwater control and climate enhancement.
 - f. Any proposed lighting in plan showing light fixture locations and details regarding the proposed light fixtures (make, model, light source etc.)
 - g. The minimum paving area requirements shall include:
 - I. The primary ingress/egress route(s). If there are two entrances to the building from one (1) street or highway, both shall be required to be paved.
 - II. The primary driving path(s) to the required parking area.

- III. The areas devoted to parking as denoted in this section.
 - IV. Driveways shall have as minimum: 4" highly compacted base course with 2" Class G asphalt mat
 - V. Parking areas shall have as minimum: 4" highly compacted base course with 2" Class G asphalt mat
 - VI. Handicap parking spaces shall meet latest revisions of the Americans with Disabilities Act and Architectural Barriers Act Accessibility Guidelines.
2. Except for parcels of land devoted to one (1) and two (2) family uses, all areas devoted to off-street parking shall be so designed and be of such size that no vehicle is required to back into a public street to obtain egress.
 3. Each non-residential parking space shall be not less than two hundred (200) square feet in area and shall be a clearly designated stall adequate for one (1) motor vehicle, but shall be sufficient for the type of motor vehicles it is intended to serve.
 4. In any determination of parking requirements as set forth in this section, where the resultant figure contains a fraction, any fraction less than one-half ($\frac{1}{2}$) may be dropped and any fraction of one-half ($\frac{1}{2}$) or more shall be counted as one (1) parking space.
 5. The parking lot shall be designed to eliminate surface water and shall comply with the requirements of the City's *Erosion and Sediment Control Ordinance Chapter 32-A*.
 6. New and used car lots, and lots used for the display of farm, industrial or commercial equipment for sale or rent, shall be constructed of a hard surface material such as asphalt or concrete and maintained in such a manner that no dust will result from continuous use.
 7. A minimum five foot (5') wide landscape buffer strip is required between public sidewalks and off-street parking stalls, parking lots, and parking lot access driveways that run parallel to a public sidewalk. The purpose of the buffer is to provide separation between vehicles and pedestrians; to allow the opportunity for vegetation including street trees to be incorporated into our community to provide shade, stormwater uptake, and aesthetic improvements and to increase community pride. A waiver of this requirement will be considered if the proposed development is within the downtown area where the sidewalk is directly adjacent to the curbs.

- a. The landscape buffer shall be designed so that there is a mix of live plant material and rock, gravel, etc., with not more than ten feet in any direction without plant cover or tree canopy. The buffer shall be visually distinct from the adjacent sidewalk and discourage vehicles from driving over the sidewalk.
 - b. Areas within the public right- of-way may be included in the five foot (5') dimension.
 - c. This requirement does not apply to the following:
 - I. A standard residential driveway that provides access to a garage, carport or uncovered parking space located on private property.
 - II. A driveway needed to cross the buffer strip to provide access from the street to parking stalls.
 - III. Parking that is located within the public right-of-way boulevard, where approved.
8. For existing uses, excluding 1 & 2-family residences and new businesses within the GC Zone, that are undergoing a modification, change or alteration to the existing structure, and who do not have a hard surface driveway or paved off-street parking area, a plan shall be provided that shows areas of pavement not to exceed 10% of the cost of the proposed improvements that will move the property into compliance with these regulations. *(See also 27-A.06.01C Landscape requirements)*

Ord. 1163 Approved 3/7/16, Effective 4/4/16

27-A.06.06. Storage and parking of vehicles, trailers and equipment.

- A. Commercial vehicles shall not be parked or stored on any lot occupied by a dwelling or on any lot in any residential district except in accordance with the following provisions:
 - 1. Not more than two (2) commercial vehicles per family living on the premises which do not exceed one and one-half (1½) tons rated capacity (per vehicle), shall be permitted; and in no case shall a commercial vehicle used for hauling explosives, gasoline, or liquified petroleum products be permitted.

2. Vehicles and trailers of all types, including travel, boat, camping and hauling, shall not be parked or stored between the back of curb and the adjacent property line along any substantially improved street.

3. In any required front or side yard, with the exception of temporary parking in a garage or carport driveway, it shall be prohibited to park or store, or to provide for the parking or storing, of any,
 - a. motorized or wheeled vehicle or equipment,
 - b. partially dismantled, non-operating or unlicensed vehicle,
 - c. air, land or water recreational equipment, or
 - d. any other discarded items or materials.

27-A.06.07. Signs, billboards, and other advertising structures.

By virtue of its Southern Black Hills location with its pristine vistas and the unique sandstone architecture of its historic district, the City has determined that, for the general welfare of its citizens and to protect and to further promote the historic significance of the city, consideration of signage aesthetics shall be a primary determinant in the review and permitting of all signs in the city.

The purpose of this Section shall be to establish effective local regulation of outdoor advertising. It is intended to provide for the convenience of the traveling public, for the promotion of locally available facilities, goods, and services, and to minimize any negative impact on adjacent properties. It is also attempting to pursue a reasonable number of and placement of signs and billboards.

A. In any area where advertising signs are permitted, all applicable state and federal regulations shall apply. In addition, any business sign or advertising sign erected within areas referred to as natural or scenic beauty, areas of historical interest, or other areas within the city referenced within this ordinance or attachments, or resolutions to this ordinance, not including South Dakota State Highways or Roads and commercial lots with an approved On-Premise Business sign shall be required to conform to the following regulations:

1. Advertising signs shall not be located in any area designated by the governing body as one of Historical Interest except as provided in the Historic Preservation District Ordinance.
2. Advertising signs shall not be located in any area designated by the governing body as one of Scenic Beauty or Natural Attractions. Such areas shall be approved by the City Council and listed or illustrated by an attached map and/or described by common name. This registry, list, or map may be reviewed at any time by the governing body at which time areas under review may be added to or deleted from the natural or scenic area designation.
3. Off premise advertising signs or billboards may be permitted through Use Permitted On Review procedure in accordance with 27-A.08.04. Construction of off-premise signs shall be regulated through the building permit process.
4. Roof signs shall be architecturally integrated into the roof structure design and in no case extend above the building roof line.
5. On-premise business signs in General Commercial, Golf Course Commercial, and Mixed Use Districts advertising the business on that specific site shall be limited to:
 - a. double-sided pole, monument, or projecting signs, of which none shall exceed twenty-five (25) square feet in size (50 sq/ft aggregate sign area)

and,

- b. wall mounted sign(s), the areas of which shall not exceed twenty-five square feet (25 sq/ft) for each twenty-five feet (25') of street frontage. Where the provisions of 27-A.06.07(A)(4)(a) are not used, the wall sign allowance shall be two square feet (2 sq/ft) of sign space per one (1) lineal foot of commercial street frontage. A wall sign may project not more than six inches from the storefront.
- c. In no case shall any one sign exceed fifty (50) square feet in aggregate area, except that an on-premise billboard may be permitted through Use Permitted On Review procedure in accordance with 27-A.08.04.
- d. In no case shall any combination of signage exceed two square feet (2 sq/ft) of sign space per one (1) lineal foot of commercial street frontage, except that no bonafide business shall not have less than fifty square feet (50 sq/ft) of sign space allotted to them.
- e. Signs shall be placed adjacent to the street upon which the sign allowance was calculated.
- f. On premise pole signs shall not be placed closer than fifty-one feet (51') to any other pole sign.
- g. Signage for customary home occupations as regulated in 27-A.06.07(A)(8).

Exceptions:

- (a) fuel stations, hotel/motels and restaurants in GC zones may comply with Highway Service sign regulations for reader-type signs.
- (b) Sign structures housing signs for multiple businesses shall be considered a commercial structure and regulated through the building permit process.

- 6. On-premise business signs in Highway Service and Industrial Districts advertising the business on that specific site shall be limited to:
 - a. pole signs, not to exceed two-hundred square feet (200 sq/ft) of aggregate sign area, provided that pole signs do not exceed thirty feet (30') in height.
 - b. monument signs, not to exceed fifty square feet in size, exclusive of the supporting elements, provided that no part of the sign or structure exceeds six feet (6') in height and complies with the corner lot provisions of 27-A.06.04(B)(1).

- c. No sign or element thereof shall be constructed closer than five feet (5') to any property line.
- d. wall mounted or projecting sign(s) shall be limited to two square feet (2 sq/ft) of sign space per one (1) lineal feet of commercial street frontage. A wall sign may project not more than six inches from the storefront.
- e. In no case shall any sign exceed fifty (50) square feet in size, exclusive of the supporting elements, with the exception of pole signs which shall not exceed one-hundred square feet (100 sq/ft) in size.
- f. In no case shall any combination of signage exceed two square feet (2 sq/ft) of sign space per one (1) lineal foot of commercial street frontage, except that no bonafide business shall not have less than fifty square feet (50 sq/ft) of sign space allotted to them.
- g. Signs shall be placed adjacent to the street upon which the sign allowance was calculated.
- h. On premise pole signs shall not be placed closer than fifty-one feet (51') to any other pole sign.
- i. Monument signs shall not be placed closer than seventy-six feet (76') to any other monument sign.

Note: These provisions allow for pole/monument sign combinations and multiple advertisements on a single sign face or sign pole. Engineering data is required for all pole sign structures.

Exceptions:

- a. Company emblems, logos, and Trademark names architecturally designed into fuel station canopies do not count towards the aggregate sign area.
 - b. Sign structures housing signs for multiple businesses, such as a mall or shopping complex, shall be considered a commercial structure and shall be regulated through the building permit process.
7. All illuminated OFF and ON premise signs or billboards shall be equipped with lighting fixtures designed and mounted in such a manner to only illuminate the sign or billboard face. At no time shall the light source be allowed to shine or reflect into or on any residential dwellings within 250 (two hundred and fifty) feet of the sign or billboard. All effort must be made to avoid illuminating the ground, other objects, and the sky, and must not adversely impact adjacent properties or streets.
 8. Business signs which direct attention to a home occupation, where such is permitted, shall not exceed four square feet (4 sq/ft) in area, and shall be

limited to one such sign per approved home occupation use. No sign shall be placed closer than twenty feet (20') to any property line abutting a street.

9. Churches, hospitals, clinics or similar occupancies in residential districts shall not exceed thirty-two square feet (32 sq/ft) in area. Such sign shall be either a wall sign or a ground sign and shall not be constructed, placed or erected at or near any intersection such that it would violate the 25 (twenty-five) foot sight triangle at intersections.
10. In any area within the jurisdiction of the City of Hot Springs, the following signs shall be allowed:
 - a. For each permitted or required parking area that has a capacity of more than four cars: one sign not more than four square feet in area, designating each entrance to or exit from such parking area; and one sign, not more than four square feet (4 sf) in area, identifying or designating the conditions of use of such parking area.
 - b. One non-illuminated 'For Sale' or 'For Rent' sign not exceeding sixteen square feet (16 sf) in area and advertising the sale, rental or lease of the premises on which the sign is located. Sign may not exceed forty-eight inches (48") in width or height.
 - c. For each real estate subdivision that has been approved in accordance with the regulations of the City of Hot Springs, one sign per entrance, not over one hundred square (100 sf) feet in area, advertising the sale of property in such subdivision. Permits for such signs shall be issued for a two year period and may be renewed for additional two year periods.
 - d. For construction on or development of a lot, signs not more than twelve square feet (12 sf) in area, stating the names of contractors, engineers or architects, but only during the time that construction or development is actively underway.
 - e. Seasonal on-premise advertising signs, for agricultural products raised and/or cultivated on that land, not to exceed twelve square feet (12 sf) in area.
 - f. Political or campaign signs. Political signs must be removed within five (5) days following such election, unless the candidate is involved with on-going subsequent elections in which the sign is intended to influence.

- g. Small directional signs shall not be greater than 18" x 24" rectangular or 18" in diameter. Directional signs shall require approval from Zoning Administrator.
- h. Signs established by, or by order of, any governmental agency.

11. Temporary signs.

- a. All temporary signs shall be placed, built, erected, or moved onto site location in such a manner as to be easily removed.
- b. Real Estate signs, garage sale signs and political signs may be placed within the right-of-way of a city street subject to the following conditions:
 - I. Signs face shall not exceed 24" x 24" in area,
 - II. Signs shall not exceed thirty inches (36") in height,
 - III. Signs shall not be placed within four feet (4') of any improved street or within ten feet (10') of the traveled path of any unimproved street.
 - IV. Signs shall not be placed in any unsafe manner.
 - V. These provisions do not apply to state right-of-ways.
- c. Temporary off-premise signs for special events, such as benefits, festivals or similar activity are allowed ten (10) days prior to any lawful event and must be removed from premise within two (2) business days of conclusion of the event. Temporary signs must substantially conform to the regulations within this ordinance.
- d. Temporary on-premise business signs may be placed in lieu of a permanent on-premise sign provided that a sign permit for a permanent on-premise sign has been applied for and the placement of the temporary on-premise sign complies with all other provisions of this ordinance and is not placed on the premises for a length of time greater than sixty (60) days from the date of the sign application.
- e. The following items shall be considered on all temporary signs.
 - I. Banners which hang across public property shall have prior approval from the City.
 - II. All signs, whether attached to vehicle, pole, or other structures shall be in such manner that it will not endanger life or safety of others.
 - III. Signs placed within any right-of-way or on any public property or attached to any traffic sign, power pole or fire hydrant, which is placed in any manner that impedes or endangers pedestrian

or vehicular traffic, shall be subject to immediate removal by the City. Such signs removed may be retrieved at City Hall for a fee of twenty-five dollars (\$25.00) each payable to the city Finance Officer. Signs not retrieved within thirty (30) days will be discarded.

- IV. May not create visibility problems or interfere with line of sight with any traffic sign or official signs.
 - V. Shall substantially adhere to this ordinance except where noted otherwise.
 - VI. Attention-Attracting Devices must be approved by the Zoning Administrator. The Zoning Administrator shall consider the type of device, location and time duration proposed along with any other pertinent information.
 - VII. Freestanding Portable Signs (mobile signs), and temporary electronic signs that will be used for grand openings or special events, must be pre-approved by the Zoning Administrator.
 - VIII. Garage/Yard Sale signs do not require a permit, but shall not be placed longer than three (3) days prior to the event and shall be removed immediately following the event.
- 12. Off-premises signs shall not be constructed to resemble any official marker erected by a governmental entity, or which by reason of position, shape, or color would conflict with the proper functioning of any official traffic control device, sign, or marker.
 - 13. Signs shall not overhang into or be placed in a dedicated public right-of-way, except as allowed by that governmental entity having jurisdiction over that right-of-way.
 - 14. Signs shall not overhang into or over adjoining property, without proof of written approval by that adjoining property owner.
 - 15. Any non-commercial vehicle bearing commercial advertisement shall be considered off-premise signage and off-premise advertising.
 - 16. Vehicle roof mounted signs shall not exceed two (2) square feet.

B. Application and Permitting.

1. Off Premise Application:

- a. All off premise signs and billboards shall be subject to the Use Permitted on Review requirements in 27-A.08.04 of the City of Hot Springs Code of Ordinances. Application shall be on a form provided by the Zoning Administrator.
- b. All other sign applications shall be made on a form provided by the Zoning Administrator and shall adhere to the provisions of this section.

2. Fees. One-time fee shall be assessed per each issued sign permit as follows:

SIGN TYPE	FEE
Temporary Sign	No fee
On-Premise Sign	\$25/sign
Sign Structure	Building Permit fee + \$25/sign
Off-Premise Sign	Use Permit Fee + Building Permit Fee

Political signs, garage sale signs, and directional signs, as defined in this Section, are exempt from fees.

C. Unsafe and Unlawful Signs.

Whenever it shall be determined by the Zoning Administrator that any sign or billboard has been constructed or erected or is being maintained in violation of the terms of this section, or is unsafe, insecure or deteriorated, such sign shall either be made to conform with all sign regulations as provided by this section or shall be removed within thirty (30) calendar days after written notification thereof by the Zoning Administrator. Such sign shall be removed at the expense of the owner or lessee thereof. If the Zoning Administrator finds that any Billboard or Sign has deteriorated more than 50% (fifty percent) of its replacement value or is not repaired within the time specified in the Notice of Violation, the Zoning Administrator shall notify the owner of the sign or billboard and the owner of the real property on which the sign or billboard is located, to remove the sign or billboard from the property at the sign or billboard owners expense within a specified period of time stated on the Notice of Violation. Signs which advertise an activity, business or service which has been out of business for ninety days (90), must remove the sign within or by the end of the ninety day (90) period.

Source: Ord. 964, 2/2000; Ord. 1038, 9/2006

27-A.06.08. Gasoline Service and filling Stations.

- A. The following regulations shall apply to all gasoline service stations.
1. There shall be a building setback from all right-of-way lines a distance of not less than forty feet (40').
 2. Service stations shall not be constructed closer than fifty feet (50') to any residential district.
 3. The minimum distance between the intersection of right-of-way lines at a corner lot and the driveway to a service station shall be not less than forty feet (40').
 4. A raised curb at least six inches (6") in height shall be constructed on all street property lines, except at driveway openings.
 5. The length of curb openings shall not exceed thirty feet (30').
 6. When two curb openings are giving access to a single street, they shall be separated by an island with a minimum dimension of twenty-five feet (25') at both the edge of the pavement and the right-of-way line. Curb cuts for driveways shall not be located closer than ten feet (10') to any adjoining property line.
 7. To insure that sufficient room be provided on either side of the pumps without intruding upon sidewalks or on adjoining property, gasoline pumps shall not be located closer than fifty feet (50') from any residential district.
 8. Gasoline pumps shall not be located closer than fifteen feet (15') to any street right-of-way line.
 9. Landscape requirements, aesthetic barriers and screening requirements shall be regulated in accordance with 27-A.06.01.
 10. Off-Street parking shall be as regulated in 27-A.06.05.
- B. Signs shall be as regulated in 27-A.06.07

27-A.06.09. Customary Home Occupation.

- A. This section defines customary home occupations and prescribes the conditions under which such occupation shall be permitted.
1. Purpose. The purpose of this section is to:

- a. Protect residential areas from the adverse impact of excessive traffic, nuisance, noise and other possible effects of commercial activities within residential neighborhoods;
 - b. Provide residents the option to use their residences for certain home occupations without altering the residential character of the neighborhood;
2. Customary Home Occupations.
- a. A customary home occupation is a gainful occupation or profession conducted by members of a family residing on the premises and conducted entirely within the dwelling. In connection with a home occupation, no stock in trade shall be displayed outside the dwelling, and no alteration to any building shall indicate from the exterior that the building is being utilized in whole or in part for any purpose other than a residential unit, including permitted accessory buildings.
 - b. Public access to the home occupation shall be by invitation or appointment only and shall not account for any appreciable increase in vehicle and/or pedestrian traffic.
 - c. Delivery of products to the home for business purposes shall not occur more frequently than twice a week. Delivery by trucks or vehicles not ordinarily utilized for residential deliveries shall be prohibited.
 - d. Limited retail sales shall be directly associated with, and subordinate to, the permitted home occupation.
 - e. No exterior display or signage shall be allowed. Advertising associated with the home occupation shall not include the physical address.
 - f. Applicants shall provide a copy of their sales tax license to the City.
 - g. The following occupations, subject to the requirements of the above paragraph, are customary home occupations:
 - a. artist, sculptor, author;
 - b. barber shop and beauty shop operated by only two (2) members of the residence;
 - c. dressmaker, milliner, seamstress, tailor, interior decorator;
 - d. professional office of a physician, massage therapist, dentist, lawyer, engineer, architect, or accountant within a dwelling occupied by the same provided that not more than one (1) paid assistant shall be employed; that adequate approved off-street parking be made available;
 - e. teaching, including tutoring, musical instruction, or dancing;

- f. not more than twenty-five percent (25%) of the floor area in the structure can be used for customary home occupation;
- g. any other similar use which the governing body deems to be a home occupation, to include Bed and Breakfast operations as defined in 27-A.02.01(12);

Exemptions:

- 1. Activities conducted entirely within the residence, such as internet transactions or stock market transactions from a home office, which does not account for any vehicle or pedestrian traffic pertaining to that activity, and where there is no outward display of that activity, shall be exempt from the requirements of 27-A.08.04.
- 2. Garage Sales, Yard Sales, Rummage Sales; Garage, yard and rummage sales shall be exempt from the permit process provided they meet the following standards:
 - i. Sales shall last no longer than three (3) days;
 - ii. Sales shall be held no more than six (6) times per year;
 - iii. Sales are conducted on the owner's property or one of the owner's properties in case of a multiparty sale.

27-A.06.10. Temporary Uses. The regulations contained in this section are necessary to govern the operation of certain transitory or seasonal uses, nonpermanent in nature.

- A. Application for a temporary use permit shall be made to the Zoning Administrator and shall contain the following information.
 - 1. A survey or legal description of the property to be used, rented, or leased for a temporary use, including all information necessary to accurately portray the property.
 - 2. A description of the proposed use.
 - 3. Sufficient information to determine the yard requirements, setbacks, sanitary facilities, and availability of parking space to service the proposed use.
- B. The following uses are deemed to be temporary uses and shall also be subject to the specific regulations and time limits which follow and to the regulations of any district in which such use is located.
 - 1. Carnival or Circus. In any nonresidential district, a temporary use permit may be issued for a carnival or circus, but such permit shall be issued for a period not longer than fifteen (15) days. Such a use shall set -back from all residential districts a distance of one hundred feet (100') or more.
 - 2. Temporary Buildings. In any district, a temporary use permit may be issued for contractor's temporary office and equipment sheds incidental to a construction

project. If such temporary building(s) contain sleeping or cooking accommodations, then before such permit may be issued, such intended use must first be subject to a public hearing and approved by the Common Council as outlined under 27-A.08.04, "Procedure for Authorizing Uses Permitted on Review:" All such temporary building permits shall be valid for not more than one (1) year but may be renewed a maximum of two (2) one-year extensions. However, all temporary buildings shall be removed upon completion of the construction project or upon expiration of the temporary use permit, whichever occurs sooner.

3. Real Estate Sales Office. In any district, a temporary use permit may be issued for a temporary real estate office in any approved new subdivision. Such office shall contain no sleeping or cooking accommodations. Such permit shall be valid for not more than one (1) year, but may be renewed a maximum of three (3) one-year extensions. Such office shall be removed or converted to a conforming use upon completion of the development of the subdivision or upon expiration of the temporary use permit, whichever occurs sooner.
4. Non-permanent structures in conjunction with or accessory to, and on the same property as, a permanently established business, such as service kiosks, coffee kiosks or similar structures. Such uses shall be considered under the provisions of 27-A.08.04.

27-A.06.11 . Tents and campers. No tent or camper shall be used, erected, or maintained as living quarters. Overnight camping is permitted on lands established for camping purposes, and in private campgrounds, where permitted in districts of this ordinance.

27-A.06.12. Lighting. Lighting of all types shall be directed so as to reflect from all residential districts, and shall be so situated so as not to reflect directly onto any public right-of-ways.

27-A.06.13. In any district, animal manure, as defined in this code, in any appreciable amount that is kept, piled, stored, or stockpiled shall be considered a nuisance.

27.07. Nonconforming Buildings, Structures, and Uses of Land.

27-A.07.01. Any otherwise lawful use of land or structure existing at the time of adoption of these regulations may be continued, maintained, and repaired, except as otherwise provided in this article.

- A. Continuance of Nonconforming Uses. The lawful operation of a nonconforming use as such use existed on the effective date of this ordinance, or any amendment hereto, by which the use became a nonconforming use, may be continued; provided however, that the number of dwelling units in a nonconforming dwelling use shall not be increased over or exceed the number of dwelling units in the nonconforming use on the effective

date of this ordinance.

- B. Extension of Nonconforming Uses in Structures. A nonconforming use in a structure may be extended throughout the structure provided no structural alterations, except those required by law or ordinances, are made therein.
- C. Changes in Nonconforming Uses. Where a nonconforming use exists, it cannot change to another nonconforming use of different quality and characteristics unless the use is more compatible with the characteristics of the neighborhood in which it is located. Where a nonconforming use has changed to a more compatible use, it shall not be changed back to a less compatible use.
- D. Termination of Nonconforming Uses. A nonconforming use that has been abandoned or discontinued for a year shall not hereafter be re-established.
- E. Open Land Nonconforming Use. A nonconforming use not enclosed in a building or structure, or one in which the use of the land is a use exercised principally out-of-doors and outside of a building or structure shall, after twenty four (24) months from the date of notification, become a prohibited and unlawful use and shall be discontinued.
- F. Destruction, Damage, or Obsolescence of Structure. The right to operate and maintain any nonconforming use shall terminate whenever the structure, or structures, in which the nonconforming use is operated and maintained, are damaged, destroyed, or become obsolete or substandard beyond the limits hereinafter established for the termination of nonconforming structures.
- G. Continuance of Nonconforming Structures. Except as hereinafter provided, any nonconforming structure may be occupied and operated and maintained in a state of good repair.
- H. Enlargement or extension of Nonconforming Structures. A nonconforming structure in which a nonconforming use is operated shall not be enlarged or extended; a nonconforming structure in which only permitted uses are operated may be enlarged or extended if the enlargement or extension can be made in compliance with all of the provisions of this ordinance established for structures in the district in which the nonconforming structure is located.
- I. Restoration of Damaged Nonconforming Structures. A nonconforming structure damaged in any manner and from any cause whatsoever to the extent of not more than sixty percent (60%) of its replacement cost may be restored, provided restoration is

completed within one (1) year of the date of the damage.

- J. Outdoor Advertising Signs and Structures. No outdoor advertising sign or outdoor advertising structure which, after the adoption of this ordinance, exists as a nonconforming use in any district, shall continue, as herein provided for nonconforming uses, but every such sign or structure shall be removed or changed to conform to the regulation of said district within a period of two (2) years following official notification of the nonconforming use exists.

- K. Nonconforming Mobile Home Use. Any nonconforming mobile home use in a residential district shall terminate when the mobile home is removed from the real property or a majority of the mobile home has been destroyed so it is no longer habitable.

Source: Ord. 964, 2/2000; Ord. 1047, 4/2007

27-A.08. Administration and Enforcement.

27-A.08.01. Organization.

- A. Administration and Enforcement.
 - 1. Administrative Official. An administrative official, hereafter known as the Zoning Administrator, designated by the Common Council shall administer and enforce this ordinance. He may be provided with the assistance of such other person as the Common Council may deem necessary for the successful enforcement of this ordinance. Should the Zoning Administrator find that any of the provisions of this ordinance are being violated he shall notify, in writing, the party or parties responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct the violation. He shall order discontinuance of illegal use of land; 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.

 - 2. Building Permits Required. No building or other structure shall be erected, constructed, enlarged, altered, repaired, improved, moved or demolished without a permit having been issued by the Building Official, except those projects specifically exempted by ordinance. No building permit shall be issued except in conformity with the provisions of this ordinance, unless he receives a written order from the Board of Adjustment in the form of an administrative

review, special exception, or variance as provided by this ordinance.

3. Application for Building Permit.

- a. All applications for building permits shall be accompanied by two (2) sets of plans 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. A third (3rd) complete set of construction plans shall be submitted for new construction.
- b. The application shall include such other information as lawfully may be required by the Building Official, including existing or proposed buildings or alterations, existing or proposed uses of buildings and land, the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with, and provide for the enforcement of, this ordinance.
- c. One (1) copy of the plans, bearing the building permit number, the review date, and stamped as 'reviewed', shall be returned to the applicant by the Building Official and one (1) copy of the plans, similarly marked, shall be provided to the subcontractor responsible for the construction of the foundation, where applicable, and one (1) copy shall be kept on file in the office of the Building Official for a period of three (3) years from the date of the issuance of the building permit, commercial documents shall be kept for a period of five (5) years.

4. Expiration of Building Permit. If the work described in any building permit has not begun within six (6) months from the date of issuance thereof, said permit shall expire; it shall be canceled by the Building Official; and written notice thereof shall be given to the persons affected. If the work described in any building permit has not been completed within two (2) years of the date of issuance thereof, said permit shall expire and be canceled by the Building Official, and written notice thereof shall be given to the persons affected, together with notice that further work as described in the canceled permit shall not proceed unless and until a new building permit has been obtained. Uncompleted projects that have not obtained a new building permit shall be deemed a dangerous building and shall be ordered to be removed or demolished to the point where they are not a public nuisance, public danger or considered a blight on the neighborhood by the governing body.

5. Construction and Use to be as provided in applications, plans, and permits.

Building permits issued on the basis of plans and applications approved by the Building Official authorize only the use, arrangement, and construction set forth in such approved plans and applications, and on other use, arrangement, or construction. Use, arrangement, or construction at variance with that authorized shall be deemed a violation of this ordinance.

B. Board of Adjustment.

1. The governing body, except as otherwise provided in SDCL 11-4-13, shall provide for the appointment of a Board of Adjustment, hereinafter referred to as the "Board." The Board shall consist of five (5) members, each residents of the City of Hot Springs, who are not members of any governing body. The members and alternates shall be appointed by the the Mayor and approved by the City Council. Each member is appointed for a term of three (3) years and removable for cause by the governing body upon written charges and after public hearing. Vacancies shall be filled for the unexpired term only.
2. The Board shall elect a chairman from its membership, shall appoint a secretary, and shall prescribe rules for the conduct of its affairs. Meetings of the Board shall be held at the call of the chairman, and at such other times as the Board may determine at a fixed time and place. All meetings of the Board shall be open to the public. The Board 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 immediately filed in the office of the Board and shall be a public record. It shall have power to call on any other departments for assistance in the performance of its duties, and it shall be the duty of such other departments to render all such assistance as may be reasonably required. In the case of all appeals, the Board shall call upon the governing body for all information pertinent to, and their recommendations.

C. Powers of the Board of Adjustment.

The chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses, and in the furtherance of their duties shall have the following powers.

1. The Board shall have the power to hear and decide appeals wherein it is alleged there is an error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this chapter or of any ordinance adopted pursuant to this chapter.
2. To hear and decide special exception to the terms of the ordinance upon which

such board is required to pass under such ordinance.

3. To authorize upon appeal in specific areas such variance from terms of the ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship and so that the spirit of the ordinance shall be observed and substantial justice done.

D. Appeal Procedures to the Board.

1. The Board of Adjustment shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to this chapter.
2. Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board, or bureau of the municipality affected by any decision of the administrative officer in the enforcement of this chapter or of any ordinance adopted pursuant to this chapter.
3. Such appeal shall be taken within a reasonable time, as provided from whom the appeal is taken and with the Board, the notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.
4. An appeal to the Board stays all proceedings in the action appealed from, unless the officer from whom the appeal is taken shall file a certificate that by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise 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 officer from whom the appeal is taken and on due cause shown.
5. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.
6. In exercising the powers mentioned, the Board of Adjustment may, in conformity with the provisions of this chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.
7. The concurring vote of four (4) members of the Board shall be necessary to

reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance, or to effect any variation in such ordinance.

- E. In lieu of appointing a Board of Adjustment, the Common Council of this City may act as and perform all the duties and exercise the powers of such Board of Adjustment as provided in SDCL 11-4-24.
- F. Governing Body. The governing body shall:
 - 1. Establish such rules of procedure as are necessary to the performance of its function hereunder.
 - 2. Review and decide all applications for uses permitted on review in accordance with 27-A.08.04 of this article.
 - 3. Study and report on all proposed amendments to this ordinance.

27-A.08.02. Variances.

The purpose of the variance is to modify the strict application of the specific requirements of this ordinance in the case of exceptionally irregular, narrow, shallow, or steep lots, or other exceptional physical conditions, whereby such strict application would result in practical difficulty or unnecessary hardship which would deprive an owner of the reasonable use of his land. The variance shall be used only where necessary to overcome some obstacle which is preventing an owner from using his lot as the zoning ordinance intended.

- A. Application procedure.
 - 1. A property owner may make application for a variance using forms available from the Zoning Administrator. Fees, as set forth in 27-A.08.06, shall accompany the application.
 - 2. The applicant shall, by certified mail, notify all property owners within two hundred feet (200') of the subject property, exclusive of rights-of-way, as to the nature of the variance request and the time and date and location at which the request will be considered. A list of those property owners and their mailing addresses shall be provided to the City Finance Officer prior to the public hearing on the matter.
 - 3. Upon application for a variance, the applicant shall place a sign, provided by the City, on the property in clear view of the street identifying that the property is being considered for a zoning variance. The sign shall be placed on the structure

or post not less than ten (10) days prior to the public hearing on the matter and shall remain until a decision on the request has been made.

4. Upon receipt of the application, legal notice shall be published in the City's official newspaper of the date, time and place of the public hearing at least ten (10) days prior to the hearing.
5. The Board shall issue its decision within thirty (30) days of the hearing, except that the applicant may request a continuance.

B. Standards for Variances.

1. Variances shall be granted only where special circumstances or conditions (such as exceptional narrowness, topography, or siting) fully described in the finding of the Board, do not apply generally in the district.
2. Variances shall not be granted to allow a use otherwise excluded from the particular district in which requested.
3. For reasons fully set forth in the findings of the Board, the aforesaid circumstances or conditions are such that the strict application of the provisions of this ordinance would deprive the applicants of any reasonable use of their land. Mere loss in value shall not justify a variance; there must be a deprivation of beneficial use of land.
4. Any variance granted under the provisions of this section shall be the minimum adjustment necessary for the reasonable use of the land.
5. The granting of any variance is in harmony with the general purposes and intent of this ordinance and will not be injurious to the neighborhood, detrimental to the public welfare, or in conflict with the comprehensive plan for development.

C. Requirements for the Granting of a Variance. Before the Board shall have the authority to grant a variance, the persons claiming the variance have the burden of showing:

1. That the granting of the permit will not be contrary to the public interest;
2. That the literal enforcement of the ordinance will result in unnecessary hardship;
3. That by granting the permit contrary to the provisions of the ordinance, the spirit of the ordinance will be observed;
4. That by granting the permit, substantial justice will be done.

D. Denial of Variance. In the event the request for a variance is denied by the Board, reapplication shall not be permitted for a period of one (1) year, unless the Zoning

Administrator determines that the circumstances surrounding the request have substantially changed.

- E. Court review. Any person, firm or corporation aggrieved by any decision of the Board may appeal the decision to the circuit court. Appeals must be made within thirty (30) days of the decision of the Board. See 27-A.08.07.
- F. Costs shall not be allowed against the Board unless it shall appear to the court that the Board acted with gross negligence or in bad faith or with malice in making the decision appealed from.

27-A.08.03. Certificate of Occupancy.

No new building shall be occupied and no change in occupancy or use of a building or part of a building shall be made unless the Building Official has issued a certificate of occupancy therefore as regulated by the International Building Codes as adopted by the City of Hot Springs.

27-A.08.04. Procedure for Authorizing Uses Permitted on Review.

The following procedure is established to integrate properly the uses permitted on review with other land uses located in the district. These uses shall be reviewed by the governing body and authorized or rejected under the following procedure.

- A. Application procedure.
 - 1. A property owner may make application to the Common Council for a Use Permitted on Review using forms available from the Zoning Administrator. Fees, as set forth in 27-A.08.06, shall accompany the application.
 - 2. The applicant shall, by certified mail, notify all property owners within two hundred feet (200') of the subject property, exclusive of rights-of-way, as to the nature of the Use Permit request and the time and date and location at which the request will be considered. A list of those property owners and their mailing addresses shall be provided to the City Finance Officer prior to the hearing.
 - 3. Upon application for a Use Permit, the applicant shall place a sign, provided by the City, on the property in clear view of the street identifying that the property is being considered for a Use Permit variance. The sign shall be placed on the structure or post not less than ten (10) days prior to the public hearing on the matter and shall remain until a decision on the request has been made.
 - 4. Legal notice shall be published in the City's official newspaper of the date, time and place of the public hearing at least ten (10) days prior to the hearing.
 - 5. The Common Council shall issue its decision within thirty (30) days of the hearing, except that the applicant may request a continuance not to exceed 60

days. *(Amended October 2015, Ordinance 1157).*

B. Requirements for submission.

1. An applicant shall submit the documents necessary to convey to the Common Council the entirety of the proposed use, including:
 - a. The location and legal description of the property;
 - b. Position, size and use of all structures, improvements and facilities to be constructed or reconstructed including new use floor layouts; *(Amended October 2015, Ordinance 1157).*
 - c. If applicable, landscape, lighting and drainage plan;
 - d. parking, off-street parking plan;
2. In consideration of a request for a use permitted on review, the Council may take into account factors including, but not limited to:
 - a. Conformance with the goals and policies of the comprehensive plan;
 - b. Compatibility with existing and potential permitted uses in proximity to the proposed use;
 - c. Public safety issues relating to projected traffic generated by the proposed use;
 - d. Community benefit of the proposed use;
 - e. Aesthetic considerations related to the scope and size of the proposed use; and,
 - f. Adequacy of public services for the proposed use.
3. The Common Council shall issue its decision within thirty (30) days; except that the applicant may request a continuance not to exceed 60 days. *(Amended October 2015, Ordinance 1157)*
4. The Common Council may impose such conditions regarding the location, character, or other features of the proposed use or buildings as it may deem advisable in the furtherance of the general purposes of this ordinance. An approved Use Permit shall be implemented within six (6) months from the date of approval unless otherwise expressly requested by the applicant and approved by Council. Any Use Permit not implemented within that specified time period will be deemed a discontinued use and the Use Permit shall be void.
 - a. Any approved use permitted by a Use Permit that has been suspended

or discontinued for twelve (12) continuous months shall be deemed a discontinued use and the Use Permit shall be void.

- b. Additional landscaping, screening, façade improvements, architectural light and similar improvements may be required by the Council to ensure the special use blends into the zone and does not cause any blight, or negative impacts on neighbors.
5. Denial of request. In the event the request for a use on review is denied by the city council, reapplication shall not be permitted for a period of one (1) year, unless the zoning administrator determines that there has been a substantial change in circumstance surrounding the request.
6. Failure to comply with any of the requirements of the Use on Review approval is cause for action by the Council to suspend or rescind the approval and legal action may be taken as stated in the *Code of Ordinances Chapter 1 – General Provisions, Section 1-7 Penalty: Continuing Violations*.

Ord. 1172: 12/19/16

27-A.08.05. Amendments.

The regulations, restrictions, boundaries, and options set forth in this ordinance may be amended, supplemented, revised, or repealed from time to time as conditions warrant, subject to the following conditions.

- A. Text or Map Amendments. Proposed amendments shall:
 1. Be necessary because of substantially changed or changing conditions of the area and district affected, or in the ordinance generally.
 2. Be consistent with the intent and purposes of the ordinance.
 3. Not directly or indirectly adversely affect any other part of the ordinance.
 4. Be consistent with and not in conflict with the Hot Springs Comprehensive Plan.
 5. Errors or oversights as may be found in the ordinance as originally adopted shall be corrected under the normal amendment procedure.
 6. No new zoning district shall be created to contain an area of less than four (4) acres. The four (4) acres need not be under common ownership.
- B. Text Amendment Request. Text amendment requests shall be filed with the Zoning Administrator. Requests may be initiated by the Commission, City Council or the Zoning Administrator.

1. General. The proposed amendment shall be presented at a regularly scheduled meeting of the Commission, at which time the Commission may initiate a study of the amendment. If no study is deemed necessary, a public hearing shall be set.
 2. Hearing by the Commission. The Commission shall publish legal notice not less than ten (10) days prior to the public hearing. At the close of the public hearing, the Commission shall forward its recommendation to the City Council.
 3. Hearing by City Council. The City Council shall publish once, at least ten (10) days prior to the hearing, notice of a final public hearing on the amendment. After taking into account all pertinent information and the recommendation of the Commission, the City Council may refuse or adopt the ordinance, with or without amendment.
- C. Map Amendment request. An application for a map amendment shall be filed with the Zoning Administrator. Rezoning requests may be initiated by either the property owner or a designated representative, or by an appropriate governmental agency. If by a designated representative, the designation shall be in writing, signed by the property owner, and filed with the application.
1. Application. The proposed application shall be presented at a regularly scheduled meeting of the Commission, at which time the Commission may initiate a study of the amendment. If no study is deemed necessary, a public hearing shall be set.
 2. Notification procedure. The applicant shall notify by certified letter, at least ten (10) days in advance of the public hearing, the owners of equity of all property in the city limits within two hundred feet (200'), exclusive of streets and alleys, from any part of the property subject to the rezoning, of the date, place and time of the public hearing. Such notification shall fully set forth a description of the development plan for the property, if any, in the event the rezoning request is approved.
 3. Hearing by the Commission. The Commission shall publish legal notice not less than ten (10) days prior to the public hearing. At the close of the public hearing, the Commission shall forward its recommendation to the Common Council.
 4. Hearing by Common Council. The Common Council shall publish once, at least ten (10) days prior to the hearing, notice of a final public hearing on the amendment. After taking into account all pertinent information and the recommendation of the Commission, the Common Council may refuse or adopt the ordinance, with or without amendment.

D. Vacating of Streets and Alleys.

1. The vacating of unimproved streets and alleys shall be pursuant to SDCL 9-45.
2. The vacating of improved streets and alleys shall be pursuant to SDCL 9-45 and shall be subject to review by the City of Hot Springs Planning and Zoning Commission in accordance with the Subdivision Ordinance Section 28.03.04.
3. Streets and alleys may be vacated by the City reserving, however, any easements and right-of-ways presently existing in said street or alley for public utility or drainage purposes.
4. The Petitioner(s) shall, by certified mail, notify all property owners within two hundred feet (200') of the subject property, exclusive of rights-of-way, as to the nature of the request and the time and date and location at which the request will be considered. A list of those property owners and their mailing addresses shall be provided to the City Finance Officer prior to the public hearing on the matter.
5. Upon application, the Petitioner(s) shall place a sign, provided by the City, on or adjacent to the street or alley in question, in clear view of the street identifying that the property is being considered for vacation. The sign shall be placed no less than ten (10) days prior to the public hearing on the matter and shall remain until a decision on the request has been made.

E. Time Limit and Notification.

1. All proposed amendments shall be scheduled for public hearing within forty-five (45) days of receipt of such proposal, unless an extension is mutually agreed upon by the interested parties.
2. All proposed amendments shall be decided by the governing body within sixty (60) days of the public hearing.

27-A.08.06. Fees.

Fees for all permits required herein, and fees required for filing of appeals, and fees for applications for amendments to this zoning ordinance shall be established as follows and be collected by the following:

Appeals to the Board of Adjustment	\$150
Variance Requests	\$150
Rezoning: Map Amendment	\$150
Zoning Text Amendment	\$150

Use Permit on Review	
Customary Home Occupation	\$150
Other Use Permits	\$150

27-A.08.07. Pending Ordinance Rule.

An applicant may be denied a building permit, business occupancy permit, plat, re-plat, rezoning application, variance, use on review permit, or other use of property or for a use allowed by this ordinance if, at the time of application, an amendment is pending, which if adopted, would proscribe the proposed use.

27-A.08.08. Penalties and Remedies.

It shall be unlawful to erect, construct, reconstruct, alter, maintain, or use any building or structure, or to use any land in violation of any regulation in this ordinance. Any person, firm, association, or corporation who violates, disobeys, omits, neglects, or refuses to comply with, or resists the enforcement of any of the provisions of this ordinance shall, upon conviction thereof, be subject to a fine of Two Hundred Dollars (\$200) together with the cost of the action. Every day of violation shall constitute a separate offense. Compliance therewith may also be enforced by injunctive order at the suit of the petitioner or the owner or owners of real estate within the district affected by the regulation of this ordinance.

27-A.08.09. Validity.

Should any section, clause, or provision of this ordinance be declared by the court to be unconstitutional or invalid, this judgement shall not affect the validity of the ordinance as a whole or any other part other than the part judged invalid.

27-A.08.10. Conflicts with Other Laws.

In the interpretation and application of the provisions of this ordinance, these provisions shall be held to a minimum requirement adopted for the promotion of the public health, morals, safety, and the general welfare. Whenever the requirements of this ordinance are at variance with the requirements of other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards shall govern.

END OF CHAPTER