



## **Spearfish Planning Commission Agenda**

**Tuesday, September 17, 2019 - 3:00 PM**

**Meeting Location: City Hall City Council Chambers, 625 N Fifth Street, Spearfish SD 57783**

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**A. Call To Order**

**B. Roll Call**

**C. Approve the Minutes from August 20, 2019**

**D. Declaration of Conflicts of Interest**

**E. Items for Action**

1. **Request:** Approve a preliminary plat  
**Location:** 369-371 Evans Lane  
**Applicant:** David Klein  
**Action:** Set a public hearing for October 1, 2019
  
2. **Request:** Provide input concerning small wind energy systems  
**Location:** C-2 Highway Service Commercial, Light and Heavy Industrial, DRD Commercial, and Airport Zoning Districts  
**Applicant:** City of Spearfish  
**Action:** Set a public hearing for October 1, 2019
  
3. **Request:** Provide Input to Sign Ordinance Update  
**Location:** City-wide  
**Applicant:** City of Spearfish  
**Action:** Continued Discussion

**F. City Council Update**

**G. Public Comment**

Public comments are welcome at this time, however, no action will be taken.

**H. Adjournment**

# Spearfish Planning Commission



## Regular Meeting Minutes

Tuesday, August 20, 2019

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The Spearfish Planning Commission met in regular session on Tuesday, August 20, 2019 at 3:00 pm in the council chambers at Spearfish City Hall. Members present: Toby Bordewyk, Barbara Zwetzig, Greg Kruskamp, Meghan Byrum, Drew Skjoldal, Bob Meyer. Absent: Larry Vavruska. Also present: City Planner Jayna Watson, City Administrator Mike Harmon, and City Attorney Ashley McDonald.

Chairman Kruskamp called the meeting to order at 3:00 pm.

### **APPROVAL OF MINUTES:**

**Meyer moved, Byrum seconded and all voted to approve the minutes of the Planning Commission meeting of Tuesday, July 16, 2019 as presented.**

### **DECLARATIONS OF CONFLICTS OF INTEREST:**

Kruskamp called for any potential conflicts of interest to be identified. No conflicts were expressed.

- 1. Request: Provide Input to Sign Ordinance Update**  
**Location: City-wide**  
**Applicant: City of Spearfish**

Watson provided a summary of the staff report and the temporary sign regulations proposed. Discussion took place concerning a number of issues including the number and sizes of signs allowed. In general, the Commission felt that the current proposal allows too much for temporary signage and a more conservative approach is needed. Rick Furnish offered comment regarding need for simplicity in understanding what signage is allowed and the ease of enforcement.

**No action was taken.**

- 2. Request: Provide input concerning small wind energy systems**  
**Location: C-2 Highway Service Commercial, Light and Heavy Industrial, DRD Commercial, and Airport Zoning Districts**  
**Applicant: City of Spearfish**

Watson presented the staff report and an overview of the proposed small wind energy system ordinance. Several comments were provided concerning various sections related to refinements needed in the definitions, as well as additional clarifying language needed for the conditional use permit approval criteria 1, 2, 4, 7, 8, and 9. The general consensus was that mitigation of impacts should account for existing and future development.

**No action was taken.**

### **CITY COUNCIL UPDATE:**

Watson reported on various matters coming before the city council on August 19, 2019.

### **PUBLIC COMMENT:**

Public comment section opened but no comments were heard and this section closed.

### **ADJOURNMENT:**

There being no further business to come before the commission, Kruskamp adjourned the meeting at approximately 4:25 p.m.




## Spearfish Planning Commission Staff Report

Meeting Location: City Council Chamber, 625 Fifth Street, Spearfish SD 57783

Staff Contact:

Jayna Watson, City Planner, 605-717-1122; [jayna.watson@cityofspearfish.com](mailto:jayna.watson@cityofspearfish.com)

<b>MEETING DATE AND TIME:</b>	September 17, 2019 at 3pm
<b>APPLICANT:</b>	David Klein
<b>REQUEST:</b>	Preliminary plat for Lots 1, 2, 3, and 4 of Lots 4A and 4B of Gov't Lot 1, Section 4 T6N R2E BHM, Lawrence County, South Dakota
<b>ACTION:</b>	Set a public hearing for October 1, 2019
<b>LOCATION:</b>	<p>369-371 Evans Lane - +/- 800 feet south of Highway 14</p> 
<b>SUMMARY:</b>	This request will allow for the platting of four single family lots located in the three mile extra platting territory. The request also includes a variance to not require a full 66 foot wide street with urban curb/gutter and sidewalk improvements. Three residences exist on this property.

**BACKGROUND AND HISTORY:**

The surrounding lands are:

- County Suburban Residential District (SRD) zoning on all sides
- Gages Nursery to the north operates via a County approved Conditional Use Permit
- In 2018, the City Council approved an agreement to provide city water to lots 1, 2, and 3 on this parcel

**PROPOSAL DETAILS:**

- This will enable the platting of a total of four lots
- Three residences exist and will be platted each with its own lot boundary and will be provided with city water per the above agreement
- A variance is requested to not require the full 66 foot wide right of way and a 36 foot wide paved street with curb/gutter and sidewalk
- There is are two existing gravel driveways that serve the three existing structures and future lot 4.
- Lot 4 is three acres and undeveloped at this time, but would be served by an on-site septic system and individual well

**STAFF ANALYSIS:**

This proposal complies with the County’s SRD zoning requirements for minimum lot size of 8,000 square feet since public water (City) and sewer (Spearfish Valley Sanitary District) will serve lots 1, 2, and 3. The applicant has received the city engineer’s approval for construction plans for the new water main that will serve Lots 1, 2, and 3 and this system will be built in 2020.

The three mile platting ordinance anticipates an urban level public street to serve Lot 4 which is the subject of the variance. The three existing structures on this property share access from two unpaved, graveled driveways that connects to Evans Lane, which is typical of properties in the lower valley area. This same driveway would be extended to serve Lot 4. Staff’s opinion is that providing access for one more future residence on Lot 4 does not warrant a fully improved public street. The applicant’s narrative requesting the variance will be included with the next staff report.

**PUBLIC COMMENTS:** This report has been provided to Lawrence County for their comment. The County Planning and Zoning Director has no comments at this time. Comments are pending from the County Highway Superintendent. Neighbors that are immediately adjacent to the property will be notified of the public hearing.

**STAFF RECOMMENDATION: Set public hearing for October 1, 2019**

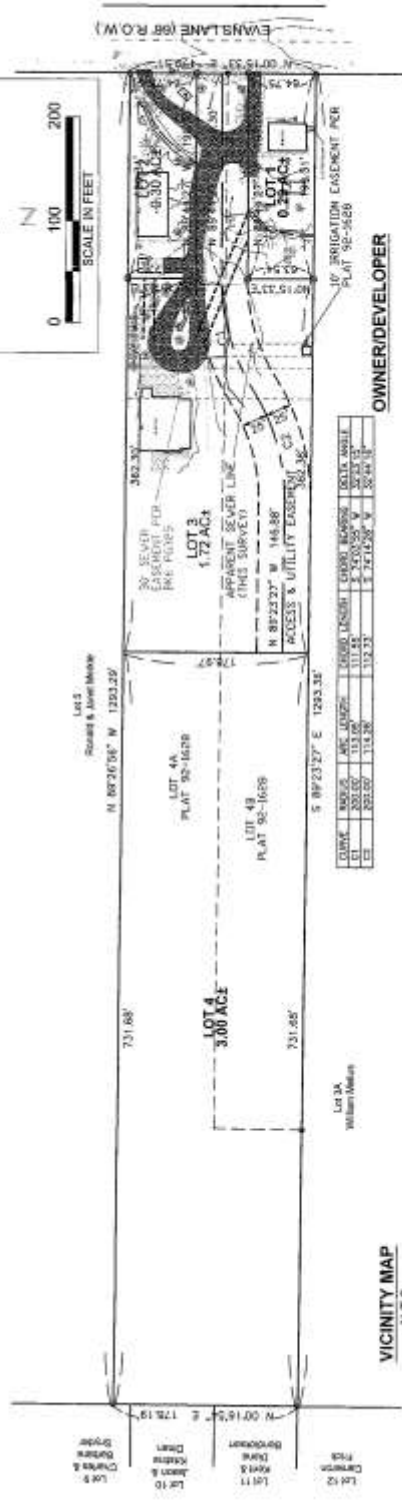
**ATTACHMENTS:**

- Page 3 – Aerial map
- Page 4 – Preliminary Plat

Existing Residential Structures



**PRELIMINARY PLAT OF  
LOTS 1, 2, 3 & 4 BEING ALL OF  
LOTS 4A & 4B, A SUBDIVISION OF GOVERNMENT LOT 1, SECTION 4, T6N, R2E B.H.M.,  
LAWRENCE COUNTY, SOUTH DAKOTA**



CURVE	ANGLE	CHORD	CHORD BEARING	CHORD AREA
1	202.00°	114.58'	S 74°15'00" W	30.24' x 31'
2	202.00°	114.58'	S 74°15'00" W	30.24' x 31'

**VICINITY MAP**  
N.T.S.



**APPROVAL BY SPEARFISH COMMON COUNCIL**

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2019

Signed: \_\_\_\_\_  
Mayor

Attest: \_\_\_\_\_  
Finance Officer

**OWNER/DEVELOPER**

David & Mary Klein  
371 Evans Lane  
Spearfish, SD 57783

CURRENT ZONING: SED (Lawrence County)  
POSTAL AREA: Spearfish 57783  
SCHOOL DISTRICT: Spearfish  
ADJACENT OWNERS: SHOWN IN PARENTHESES  
CONTOUR LINES: SURVEY BY INTERSTATE ENG.  
FLOOD ZONE: Community: City of Spearfish  
Parcel: 0083 Sulfic P  
Map Number: 460301  
Effective Date: 4/17/2012  
Zone: X

DATE PREPARED: MARCH 15, 2019

NOTE: Adjacent land ownership shown herein was acquired from the Lawrence County GIS Website.

**Prepared By:**

Surveyed By: _____	Date: _____	Drawn By: _____	Date: _____
Checked By: _____	Date: _____	Project Number: L18-04-042	

**INTERSTATE  
ENGINEERING**


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## PLANNING COMMISSION UPDATE MEMORANDUM

September 17, 2019

TO: Planning Commission

FROM: Jayna Watson, City Planner 

RE: Sign Ordinance Discussion – Temporary and Permanent Sign Permissions

### Temporary Signs

*Limiting the number of right of way signs* – Because the right of way is publicly owned property, the permission to post signs in this location can be more restrictive, and does not necessarily have to grant equal rights to all owners. Staff recommends that each lot/condo/commercial tenant be permitted one, six square foot right of way sign. The limiting mechanism will be a minimum spacing of 50 feet between signs to ensure that the public right of way does not become an unlimited space for signage. During election season, the maximum allowed would be two signs per lot/condo owner/commercial tenant.

*32 square foot signs on private commercially zoned property* – A maximum of one sign with a total of 2 allowed during election season. Direction is requested for if feather banners should be allowed.

*6 square foot signs on private commercial and residentially zoned property* – A maximum of two signs with a total of 4 allowed during election season.

*Preservation of visibility of traffic, height limits, and sidewalk clearances* – The standard provisions of the zoning code require that no sign may be taller than 2.5 feet if located within 40 feet along the intersecting curb lines of an uncontrolled intersection, therefore no new regulation is required. Additional language has been included that requires traffic visibility at all site driveways as well as all intersections.

### Permanent Signs

Since the last meeting, staff also evaluated the regulations for permanent signs. Minor changes are recommended for overall clarity. The majority of these regulations meet the standards for content neutrality with the exception of one regulation concerning church signage. This category has been deleted and would be regulated as non-residential use in a residential zoning district, or if zoned commercial, the standard allowances in that district.

In several locations throughout the text, the word “shall” and “shall be” is being replaced by “must” or “is”. This is the preferred modern legal terminology.



**Section 6. Sign regulations - (Yellow highlight reflect changes since last meeting re: temporary signs)**

- A. General provisions and purpose – reviewed on 7-2-19
- B. Sign subject to regulation – reviewed on 7-2-19
- C. Temporary Sign Regulations** (note: defined as a sign displayed 90 days per year or less)
  - 1. Temporary signs are permitted according to Table 1, and the standards listed below.
  - 2. Temporary signs posted in the public right of way require permission of the **property owner that maintains the street frontage where the sign will be placed.**
  - 3. Signs ~~must~~ **shall** be securely anchored or fastened so as not to be **displaced** into the street.
  - 4. Public sidewalks and streets ~~must~~ **shall** not be impeded by sign placement.
  - 5. Signs ~~must~~ **shall** be located to enable visibility of oncoming traffic from all site driveways onto a public street and at street intersections.
  - 6. Signs may not be attached to a utility box/cabinet or transformer, or a support pole for a traffic signal, traffic sign, street light, or any overhead utility.
  - 7. Signs ~~must~~ **shall** be free of all rips and tears and without any folds or sagging.
  - 8. Signs must be legible, clean, and free from deterioration.
  - 9. Signs that **have a** display ~~copy~~ on both sides are counted as one sign.

**Table 1**

1	2	3	4
Location of Temporary Sign	Maximum square feet per sign	Maximum number of signs per individual lot <sup>1</sup> , building tenant, or condominium unit	Maximum number of signs allocated per column 3 and 60 days before and 48 hours after an election
Public Rights of Way: a) Allowed in any zoning district b) <b>Minimum spacing 50 feet between signs</b>	6	1	<b>2</b> <del>10</del> (not permitted in areas zoned CC - Central Core)
Private Property Zoned R-3, CC, C-1, C-2, C-3, I-LR, IH, APZ, DRD non-residential and DRD multi family residential	32	1	<b>2</b> <del>10</del>
	6	2	<b>4</b> <del>10</del>
Private Property Zoned AG, RLS-1, R-1, R-2, DRD one and two family residential	6	2	<b>4</b> <del>10</del>

1. Three or more contiguous lots under the same ownership are considered one lot.  
Staff Commentary/Key Points re: temporary signs:

- Temporary signs will be defined as those displayed 90 days or less per year, versus, current code that defines them by how they are used or for what purpose.
- Because temporary signs cannot be classified according to their purpose, the new regulations assign the permissions by lot, or type of building. This results in fewer number of signs allowed in some instances such as business promotion signs which previously were allowed 2 signs per lot, and now are permitted 1 per lot.
- Vertical feather banners (image below) have been requested by many businesses and some wish to display more than one. Staff is concerned about visual clutter with these signs. If this is pursued by the Planning Commission and City Council, Staff recommends prohibiting them in the downtown Central Core zoning along Main Street from Grant to Jackson simply because of the number of obstacles (trees, planters, furniture, sidewalk signs) already on the sidewalk and the detraction from the historic context of the downtown. If this type of signage is to be permitted for permanent or temporary use, a specific reference to this type of sign, along with number allowed must be specified.



**D. Permanent signs;** allowed size (area), ~~and~~ types of construction, and illumination - see Table 2 for summary.

1. ~~The~~ method for calculating sign ~~size or area~~ is according to the following:

a. The actual dimensions of the outer limits of the sign face material, excluding frames that physically hold the sign ~~shall~~ comprises the maximum sign area.

b. In the case of individual lettering on an exterior wall, awning, or other undefined structure or space, sign area ~~is shall be~~ determined by calculating the area of a geometric object large enough to cover the words forming the sign message, around the whole of the lower case letters excluding ascenders/descenders, if necessary, a combination of geometric objects may be used.

~~c. Logos may be excluded from the sign area provided that:~~

~~(1) The logo(s) is/are subordinate to the sign(s) that are subject to a permit and a maximum sign area.~~

~~(2) Logo(s) shall not exceed twenty (20) square feet for each logo.~~

c. For sites with more than one building, each building has its own sign allowance.

(below is the updated version of the 'logo' provisions, as well as what were once referred to as 'directional' signs)

d. In addition to signs described in Table 2, the following are permitted on private property in non-residential zoning districts:

(1) Signs 10 square feet or less may be placed at a driveway that connects to a street and a maximum of 2 per lot.

(2) Signs 20 square feet or less and a maximum of two per lot.

(below reflects how the number of signs allowed have been interpreted in the past)

e. A freestanding support that displays more than one sign cabinet or sign board is counted as one sign for the purposes of maximum number of signs allowed.

Example of using a simple rectangle to calculate sign area for individual letters (within outlined area):



Example of using a simple rectangle or combination of geometric shapes to calculate sign area for individual letters and/or images on more than one line (within outlined area):



2. *Design and construction requirements of all permanent signs.*

a. All exterior mounting hardware, brackets, and related supporting elements (except for freestanding support poles/posts) ~~must shall~~ not be visible. If concealment is not possible, supporting hardware ~~must shall~~ be painted a color to blend with the surrounding structure.

b. A footing design ~~must shall~~ be submitted for free standing signs that are taller than fifteen (15) feet measured from grade at the bottom of the support, to the highest part of the sign. The footing design may require a professional engineer's design, at the discretion of the building official.

c. No sign ~~may shall~~ be attached to a tree, utility pole or box, vending machine, benches, street fixtures/ furnishings or other unapproved structure.

SEE NEXT PAGE FOR SIGN TABLE 2

**Permanent Signs (displayed more than 90 days per year)**

**TABLE 2**

1	2	3	4	5	6	<u>6. 7</u>
<b>Sign Type</b> <u>Zoning or Use</u>	<b>Max. Number Signs Permitted</b>	<b>Max. Square Footage* <del>each</del> sign*</b>	<b>Location Permitted</b>	<b>Lighting Permitted</b>	<b>Other Regulations</b>	<b>Sign Permit Required ?</b>
Church	1 per street frontage per parcel	50	On private property	yes, see Section 6.D.7	Permanent signs Section 6.D	yes
Kiosk Tenant	1 per tenant	30 <u>square feet per sign</u>	Exterior building wall; no pole mounted signs	yes, see Section 6.D.7	Permanent signs Section 6.D	yes
Multi Tenant Commercial Building <u>(standards for CC, C-1, C-2, C-3, ILR, IH, APZ and DRD do not apply)</u>	3 per tenant	2 <u>square feet</u> per each linear foot of suite width, <u>up to 150 square feet per sign</u>	On private property	yes, see Section 6.D.7	Permanent signs Section 6.D	yes
	1 monument sign**	300 <u>square feet per sign</u>	On private property	yes, see Section 6.D.7	Permanent signs Section 6.D	yes
Commercial and Industrial <u>zoning districts C-1, C-2, C-3, ILR, IH, APZ and DRD commercial</u> outside Central Core zoning	2 per street frontage <sup>2</sup>	2 square feet per each linear foot of building facing the street. 150 <u>maximum square feet per sign street</u>	On private property	yes, see Section 6.D.7	Permanent signs Section 6.D	yes
<del>Central Core CC</del> <u>zoning Downtown</u>	2 per street frontage	<del>Maximum</del> 100 square feet <del>total</del> per street frontage for all signs	On private property	yes, see Section 6.D.7	Permanent signs Section 6.D Square footage may be apportioned by owner	yes

Zoning or Use	Max. Number Signs Permitted	Max. Square Footage	Location Permitted	Lighting Permitted	Other Regulations	Sign Permit Required ?
<u>Home Occupation or Use on Review Conditional Use Permit or non-residential use within a residential zoning district</u>	1 per <u>lot</u> <del>home occupation</del>	3 square feet - with staff approval or up to 32 square feet with <u>Planning Commission City Council</u> approval	<del>Exterior wall of house/ building or as otherwise</del> <u>On private property as approved by City Council Planning Commission</u>	<u>as approved by the Planning Commission; yes,</u> see Section 6.D.7	Permanent signs Section 6.D	yes
Ag zoning and R-3 multi-family zoning	1 per <u>lot</u> <del>parcel</del>	16 square feet	On private property	yes, see Section 6.D.7	Permanent signs Section 6.D	Yes
<u>Signs posted at the entrance to a residential or commercial neighborhood Subdivisions</u>	1 sign per entry	100 square feet	On private property	yes, see Section 6.D.7	Permanent signs Section 6.D	Yes

\* Signs with more than one side are counted as one sign for square footage purposes.

\*\* Signage for individual tenants to be allocated by the building owner.



# Spearfish Planning Commission Staff Report

Meeting Location: City Council Chamber  
625 Fifth Street, Spearfish SD 57783

Staff Contact:

Jayna Watson, City Planner, 605-717-1122; [jayna.watson@cityofspearfish.com](mailto:jayna.watson@cityofspearfish.com)

<b>MEETING DATE AND TIME:</b>	Tuesday, September 17 2019; 3pm
<b>APPLICANT:</b>	City of Spearfish
<b>REQUEST:</b>	Approve an update to Appendix A Zoning, Article IV. District Regulations, Article V. Supplementary Regulations and Article VI. Administration and Enforcement creating new Section 11 pertaining to Small Wind Energy Systems (SWES)
<b>ACTION:</b>	Set a public hearing for 10-1-19
<b>LOCATION:</b>	Commercial, Industrial, Airport and DRD Commercial zoning districts

## BACKGROUND AND HISTORY/SUMMARY:

Several months ago, the City Council requested that new set of regulations pertaining to SWES be drafted with the prime features being:

- 1) Reviewed by the Planning Commission as a Conditional Use Permit
- 2) Permitted by a CUP only in commercial, industrial, airport and DRD commercial zoned areas

## PROPOSAL DETAILS:

Since the last commission meeting, staff researched these additional issues for how other communities have addressed them:

- **Maximum swept area** – this is the airspace that the moving parts of the system occupy. Staff researched the wind generation rules for Lawrence County, Rapid City, Vermillion, Sioux Falls, Brookings and Mitchell and did not find any standards for this feature of wind systems. Brookings had a definition for swept area, but no actual regulation. Looking beyond South Dakota, the results were varied:
  - Portland OR – 150 square feet; +/- 6.9 foot long blades
  - Boulder County CO – no standard for swept area
  - Barton County KS – less than 100 square feet is not regulated as wind system

- Lancaster County NE (Lincoln) – no standard for swept area
- Cheyenne WY – no small wind regulations
- Sheridan WY – no standard for swept area
  
- **Minimum distance between a moving part/blade and the ground** –This standard is commonly found in other ordinances its purpose is to deter any interaction of people on the ground with the moving parts of the system. The distance used in other communities ranges from 20 to 30 feet:
  - Rapid City – 30 feet
  - Lawrence County – 25 feet
  - Vermillion – 30 feet
  - Sioux Falls – No minimum
  - Brookings – 30 feet
  - Mitchell – 20 feet
  
- **Shadow flicker** – this matter was dealt with in the following ways:
  - Rapid city - no standard for shadow flicker
  - Lawrence County – applicant must show how they would mitigate impact on “any occupied structure or non-participating property”
  - Vermillion – no standard for shadow flicker
  - Sioux Falls – no standard for shadow flicker
  - Brookings – no shadow flicker may not fall on adjacent occupied building or right of way
  - Mitchell – no standard for shadow flicker
  
- **Noise impacts**
  - Rapid city – 60 db(A) at the property line closest to the wind system.
  - Lawrence County – 50 db(A) at any point on an adjacent property.
  - Vermillion – 60 db(A) at the property line closest to the wind system.
  - Sioux Falls – Regulated by standard noise ordinance. Commercial is allowed 65 db(A); Industrial is allowed 75 db(A) measured at the location of where noise nuisance is reported.
  - Brookings – 60 db(A) at property line of an occupied building.
  - Mitchell – Regulated by standard noise ordinance. Commercial/industrial is allowed a low of 55db(A) from 9pm to 7am to a high of 80db(A) during the day time at property line of noise source.

Of the topics researched, the following are staff’s recommendations:

Maximum swept area – No recommendation. The 150 square feet appears to be a reasonable standard however, not many other examples are available in order for staff to review and assess if this should be included.

Minimum distance between moving parts and the ground – 20 feet

Shadow Flicker – Mitigate impacts on existing occupied structures and structures under construction on adjacent lots.



Noise Impacts – Retain existing language that the wind system may not exceed ambient noise levels when measured at the property line of where the system is located. Staff does not recommend a specific decibel level such as what other cities have done. It is possible for a system to meet or be under the maximum noise level, and still be a nuisance. Last, the City of Spearfish does not have noise ordinance that specifies a maximum decibel limit for any other land use.

**PUBLIC COMMENT:** No comment has been received as of this writing but expect that once a public hearing has been set, additional interest and comments will emerge.

**STAFF RECOMMENDATION: Set Public Hearing for October 1, 2019**

**ATTACHMENT:** Proposed small wind energy system ordinance – changes made since last meeting highlighted in yellow.

ORDINANCE NUMBER xxxx

AN ORDINANCE AMENDING APPENDIX A ZONING, OF THE REVISED ORDINANCES OF THE CITY OF SPEARFISH PERTAINING TO ARTICLE IV. DISTRICT REGULATIONS, ARTICLE V. SUPPLEMENTARY REGULATIONS, AND ARTICLE VI. ADMINISTRATION AND ENFORCEMENT

BE IT ORDAINED by the Common Council of the City of Spearfish, that the following text shall be amended - with strikethrough indicating text to be deleted, bold indicating text to be added, and the remainder of the Article left unaffected—as follows:

Article IV. District Regulations

Section 7. C2 highway service commercial district.

A. General description. This district is established for the accommodation of retail and business service activities and are typically located and grouped along a major street, street intersection or highway interchange, generating a considerable volume of vehicular traffic.

B. Primary uses permitted. Property and structures in the C2 highway service commercial district shall be used for the following purposes:

[ . . . ]

C. Uses eligible for conditional use permit. Conditional use permits may be granted to properties for the following land uses.

1. Drop-off or transfer sites for household recyclables.
2. Telecommunications facilities.
3. Large scale contractor.
4. Veterinary clinics for domesticated animals including pet daycare and overnight pet stays for which outdoor runs and kennels are provided.
5. Treatment center.
6. Small wind energy systems (SWES)

[ . . . ]

Section 8. ILR light/restrictive industrial district.

A. General description. This district is intended to provide for a number of light manufacturing, wholesale, retail, warehousing and service uses where landscaped site frontages provide an attractive setting for business.

B. Primary uses permitted. Property and structures in the ILR light/ restrictive industrial district shall be used for the following purposes:

[ . . . ]

C. Uses eligible for a conditional use permit. Conditional use permits may be granted to properties for the following land uses:

1. Telecommunications facilities.
2. Schools and universities.
3. Crematory.
4. Detached site-built or modular single-family dwellings in support of a primary use.
5. Small wind energy systems (SWES)

[ . . . ]

Section 9. IH heavy industrial district.

A. General description. This district is intended to:

1. Reserve appropriately located areas for heavy industrial and related activities where the environmental impacts are of a different nature than in other commercial and industrial zones, and ensure the continuity of locations for industries that can operate on sites with minimum mutual adverse impact.

2. Provide opportunities for certain types of industrial uses to concentrate in mutually beneficial relationships to each other.

B. Primary uses permitted. Property and structures in the HI heavy industrial district shall be used for the following purposes:

[ . . . ]

C. Conditional use permits may be granted to properties for the following land uses:

1. Extractive operations for sand, gravel, rock, minerals, and similar materials.
2. Processing facilities for food, beef, pork, fish, poultry, agricultural crops, timber, wood and similar raw materials.

3. Small wind energy systems (SWES)

[ . . . ]

Section 10. Development review district.

A. General description. The purpose of the development review district (DRD) is to allow development of undeveloped parcels of land that, by virtue of their visually and/or environmentally unique location, lend themselves to a blend of diverse yet compatible uses, innovative layouts or sensitive designs. Development of such parcels shall be accomplished while meeting public requirements, including preservation, promotion and protection of open space, scenic vistas and natural resources, by-through the application of extra administrative controls. All final plans in the development review district shall be recommended by the planning commission and approved by the common council under the procedure set forth herein. Final approval by the common council is deemed to be an administrative act not subject to referendum.

~~B.a Uses permitted. Property and structures in the DRD-Development review district shall be used for the following purposes: Unless expressly prohibited in C. below, the following uses are permitted:~~

1. Commercial uses.
2. Inpatient and outpatient health care facilities and clinics.
3. Long term care, congregate and assisted living facilities.
4. Religious and educational facilities and institutions.
5. Light manufacturing and office park uses.
6. Public and private recreation facilities and their ancillary services.
7. Variable density housing.
8. Public and private transportation, utility and public safety facilities.
9. Agricultural uses.
10. Telecommunications facilities ~~as defined and regulated in Article V, Section 8 by administrative approval and use permit.~~
11. Photovoltaic (PV) systems ~~per Article V, Section 9.~~

~~B.b Uses eligible for a conditional use permit. Conditional use permits may be granted to properties for the following land uses:~~

1. ~~Small wind energy systems (SWES) for lots designated by the concept plan as being commercial, open space, or other non-residential land use.~~
2. ~~Telecommunications facilities,~~

C. Uses prohibited.

[...]

Section 11. APZ airport zoning district.

A. General description. The purpose of the airport zoning district (APZ) is to provide for and promote the aviation and economic development potential of Black Hills Airport/Clyde Ice Field. This district shall apply to all existing and future properties included in the ownership boundaries of the airport. To achieve its purpose the district shall, in concert with the airport master plan:

1. Reserve appropriately located areas for business, industry and aviation and to provide and ensure the continuity of locations for uses that can operate on sites with maximum mutual beneficial impact.
2. Establish and maintain high standards of site planning, architecture and landscape design that will create a safe and attractive environment for business and industry, while maximizing the protection of the aviation mission of the airport.
3. Protect areas appropriate for business, industry and aviation from intrusion by inharmonious uses.
4. Provide opportunities for certain types of industrial, business, residential and aviation uses to concentrate in mutually beneficial relationships to each other without compromising the primary mission of aviation.

~~B.a Uses permitted. Primary uses permitted. Property and structures in the APZ Airport zoning district heavy industrial district shall be used for the following purposes:~~

1. All aviation and related uses.
2. Light industries and businesses that operate solely within the confines of an

- enclosed structure and whose activities do not cater to the general public.
3. Residential use shall be limited to those areas designated as "Residential Air Park" (RAP), by the Airport Master Plan, as from time-to-time may be amended.
  4. Photovoltaic (PV) systems ~~per Article V, Section 9~~
  5. Telecommunications facilities.

B.b Uses eligible for a conditional use permit. Conditional use permits may be granted to properties for the following land uses:

1. Small wind energy systems (SWES).
2. Telecommunications facilities.

## Article V. Supplementary Regulations

### Section 11. Small Wind Energy Systems (SWES)

A. Purpose—. The purpose of these standards is to define the review criteria that will be used in considering Conditional Use Permit Requests for SWES. Meteorological towers are not subject to these regulations.

#### B. Definitions.

"Meteorological tower" (met tower) is defined to include the tower, base plate, anchors, guy cables and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment anemometers and vanes, data logger, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location.

"Own" shall mean the individual or entity that intends to own and operate the small wind system in accordance with this ordinance. *(un-necessary definition)*

"Rotor diameter" means the overall diameter of the circle swept by the rotating blades. *(Suggest deleting since this term is not used in any of the development standards or CUP criteria)*

"Shadow flicker" means alternating changes in light intensity caused by rotating blades parts that cast shadows on the ground and stationary objects such as a window on an occupied structure.

"Small wind energy system" (SWES) means equipment arranged in any configuration that converts stores, or transfers energy from the wind into usable forms of electrical energy or mechanical function for on-site use. This equipment includes the wind generator and related components and supporting structures

"Total height" means the following:

- a. for a horizontal axis system, the vertical distance from ground level to the tip of a wind generator blade when the tip is at its highest point.

- b. for a vertical axis system, the vertical distance from ground level to the highest point of the SWES, excluding lightning rods.
- c. for a roof mounted system, the vertical distance from ground level to the highest point of the SWES.

“Roof mounted” means a system mounted on and totally supported by a structure or structure that complies with current codes, but not supported by a tower.

“Tower mounted” means a system mounted on a monopole, freestanding, or guyed structure that supports a wind generator.

“Wind energy system” means equipment that converts then stores or transfers energy from the wind into usable forms of electrical energy. This equipment includes the wind generator and other components used in the system. *Merged/combined with small wind energy system.*

“Wind generator” means **the moving parts of the system that are activated by the force of the wind along with any** associated mechanical and electrical connections and components.

### C. Conditional Use Permit approval criteria for Small Wind Energy Systems (SWES)

1. Certification: All SWES must either be certified by its manufacturer or a licensed **mechanical professional** engineer to meet current recommendations of the American Wind Energy Association (AWEA), the British Wind Energy Association (BWEA) or the United States Department of Energy (DOE), with evidence of certification submitted at the time of application for a conditional use permit.
2. Setbacks. The SWES shall adhere to the setbacks of the zoning district. Greater setbacks are required **as described below.**
  - a. A setback distance of 1.1 times the height of the system is required along all property lines if an occupied structure (excluding sheds, garages, and storage structures) exists on an adjoining lot that is not owned or controlled by the owner of the SWES, and, the distance between the structure on the adjoining lot and the wind energy system is the same or less than the total height of the SWES.
  - b. If the manufacturer’s recommended setback for mitigation of any impact to an adjoining lot is greater than as described above in 2.a, the manufacturer’s setback is required.
3. Maximum Total Height. The maximum total height of any SWES shall be **75 feet for C-2, I-LR, I-H, DRD, and APZ zoning districts.** (60 feet is the maximum allowed height in C2 and DRD. In ILR, IH, and APZ there is no maximum except for what is regulated by the FAA and building/fire codes)
4. Clearance of blades/moving parts: No moving portion of a wind generator shall be located within twenty feet of the ground. No blades may extend over parking areas, public rights of ways, driveways, sidewalks, or above-

ground utilities.

5. Lighting. A wind tower and generator shall not be lighted unless such lighting is required by the Federal Aviation Administration.
6. Appearance, Color, and Finish. Poles, blades, and SWES shall be painted a color which is deemed to be compatible with the surroundings. Dark muted earth tones are preferred to lighter colors. If manufacturers' specifications do not permit changing the factory paint finish, this shall be disclosed at the time of application for approval.
7. There shall be only one small wind energy system per legally defined parcel. A maximum of one tower mounted wind generator is permitted per lot. A maximum of two roof mounted wind generators are permitted per lot. Both tower and roof mounted wind generators are permitted on the same lot.
8. The SWES shall be located such that it does not create noise impacts above the ambient noise level at the property line that is closest to the SWES, immediately surrounding the exterior of an occupied structure on an adjoining lot.
9. An application for a SWES will not be approved if it would cause shadow flicker at any time of day or night, regardless of season, to fall onto:
  - a. An existing occupied structure on an adjacent nearby lot.
  - b. On a structure under construction on an adjacent lot at the time of application for approval of an SWES, and the structure is intended to be occupied.

## Article VI. Administration and Enforcement

### Section 3. Conditional Use Permits

#### A. Generally

[...]

#### B. Approving Authority

[...]

#### C. Evaluation criteria. In either making a recommendation to approve or deny, or acting to approve or deny an application for a CUP, the following criteria shall be considered:

1. The proposed use shall comply with other ordinances. A CUP may not be issued to allow a use otherwise prohibited specifically identified as being eligible for a CUP;
2. The proposed use shall be eligible for a CUP based on the zoning district;
3. The proposed use shall comply with the setback, lot coverage, height and other requirements of the zoning district, unless the subject property is

- currently legally nonconforming or a request for a variance is simultaneously submitted with the application for a CUP;
4. The proposed use shall be compatible with the location, physical character, and topographic features of the property;
  5. Buffering measures along parcel boundaries shall exist or be incorporated to mitigate any visual impact of outdoor use areas onto adjacent property;
  6. If applicable, lighting from all sources shall be designed so that it does not unreasonably affect adjacent property;
  7. The proposed use shall not create an unreasonable public safety issue relating to the property or its surroundings, nor increase the risks of an existing public safety issue;
  8. The proposed use shall have adequate pedestrian and vehicular access, circulation and parking, including those related to bicycle transportation and transportation by persons with physical disabilities;
  9. The proposed use shall not result in any unusual or unreasonable parking impacts.
  10. The proposed use shall not result in an unusual or unreasonable number of vehicle trips per day as measured against the character of the neighborhood of the subject property and the street network serving it;
  11. The proposed use shall not result in an unusual or unreasonable level of noise;
  12. Adequate public services and utilities shall be available to accommodate the proposed use; and
  13. Additional imposed conditions, if any, will mitigate any probable adverse impacts of the proposed use.
  14. For applications for small wind energy systems (SWES) only, the specific conditional use permit criteria for the SWES has been met.

Authorization: That this ordinance is being passed pursuant to the provisions of SDCL §11-4-1

Severability. If any provision of this code or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the code which can be given effect without the invalid provision or application, and to this end the provisions of this code are severable.

Effective Date. This ordinance will be effective 20 days following publication, which will occur after the ordinance receives second and final reading by the City Council and is signed by the Mayor.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 2019

CITY OF SPEARFISH

By:

\_\_\_\_\_  
Dana Boke, Mayor

ATTEST:



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Michelle DeNeui, Finance Officer

(SEAL)

First Reading:

Second Reading:

Public Hearing:

Published:

Effective: