

OVERVIEW OF ZONING AND PERMITTING

Basic Zoning Requirements

State law allows counties to establish land use restrictions through adoption of a county zoning ordinance. The planning work meetings, where the zoning ordinance is drafted, are open to the public. A county commission must publish notice and hold at least one public hearing on the proposed plan before it can be adopted. After the public hearing, there are two required readings and publication of a notice of adoption before the ordinance becomes effective.

Following adoption of a zoning ordinance, it can be referred to a vote of the qualified voters in the county if a petition is signed by five percent of the registered voters in the county, based upon the total number of registered voters at the last preceding general election. Amendments to the zoning ordinance are subject to the same public hearing process.

Zoning Districts

SDCL 11-2-14 allows county commissioners to divide the county into zoning districts, specifying which general uses are permitted by right within the district.

Examples include agricultural, commercial, industrial, residential, etc.

Permitted Uses

Land uses that are allowable by right may require the property owner to obtain a permit by filing an application with the county. The land use must meet all setback requirements and other specifications set out in the county zoning ordinance. The landowner makes an application and receives a permit as an administrative action.

Examples: building permit for single family residence, accessory farm buildings, shelterbelts, small livestock feeding operations.

Conditional Uses

SDCL 11-2-17.4 defines a conditional use as any use that, owing to certain special characteristics attendant to its operation, may be permitted in a zoning district subject to the evaluation and approval by the approving authority specified by the county commission. A conditional use is subject to requirements that are different from the requirements imposed for any use permitted by right in the zoning district.

Conditional uses are considered "generally compatible" with other land uses in the zoning district if certain conditions are met. SDCL 11-2-57 requires a public notice and

at least one public hearing before the conditional use permit can be issued. Usually, information from the public hearing is used to attach additional conditions to a proposed conditional use permit to enhance its compatibility.

Examples include large CAFOs, wind farms, gravel pits, airports, golf courses, private campgrounds, shooting ranges, solar farms, and cell towers.

Permitted Special Use/Special Permitted Use

SDCL 11-2-17.5 gives county commissions the authority to certify special permitted uses. These are basically a permitted use with special requirements. Proposed projects that meet all the criteria set out in the zoning ordinance are approved as a matter of administrative action.

Examples of special permitted uses within an agricultural zone include bed and breakfast establishments, greenhouses/nurseries, single-family residences on lots that do not meet minimum lot area requirement, signs, or certain new or expanded small animal feeding operations