

ORDINANCE NO. 957

AN ORDINANCE AMENDING CERTAIN LANGUAGE IN IDENTIFIED SECTIONS OF CHAPTER 27

BE IT ORDAINED, BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF YANKTON, SOUTH DAKOTA THAT:

Section 1.

Chapter 27 of the revised Code of Ordinances shall be amended as a means of updating, further defining and eliminating inconsistencies in the Zoning Code related to lot frontage on cul-de-sacs, patio shading, corner lot rear yard requirements, parking stall size, yard screening, customer visits and several other administrative adjustments that reflect superseding laws, regulations and policy directives. Identified language of Sections of Chapter 27 shall be amended as follows:

27-2

Boarding house / Bed and Breakfast: A building other than a hotel or restaurant, where sleeping rooms and meals are provided on a temporary basis for compensation for four (4) or more persons, but not exceeding twelve (12) persons.

Lodging house: ~~A building with not more than five (5) guest rooms where lodging is provided for compensation pursuant to previous arrangement, but not open to the public or transients.~~

27-4 General Provisions

(e) No space which for the purpose of a building or dwelling group has been counted or calculated as part of a side yard, rear yard, front yard, court or other open space required by this chapter, may be reason of change in ownership or otherwise, be counted or calculated to satisfy or comply with a yard, court, or other open space requirements of or for any other building.

A landing, not including a roof or canopy, with or without a rail, ~~having a surface area of not more than twenty-five (25) square feet excluding access steps or a ramp~~, may occupy a front yard. A one story bay window may project into a front yard not more than three (3) feet. Overhanging eaves including gutters may project over the minimum required front, side or rear yard not more than twenty-four (24) inches.

(h) Fences: In any district zoned R-1, R-2, R-3, or R-4 residential or B-1 local business; no fence, wall, structure, or planting of foliage or other structure shall be erected except as follows:

(1) ~~interior lots~~, No fence, wall, structure or planting of foliage shall be permitted from the established building line to the street line around the side or front yards which exceeds four (4) feet in height.

(1) Any area annexed to the city shall, upon annexation be automatically zoned the same designation as it was in the extraterritorial jurisdiction. If the area was not in the extraterritorial jurisdiction, any area annexed to the city shall, upon such annexation be automatically zoned agricultural until, in the waiver provided for amendments to this chapter, appropriate zoning has been recommended to the board of commissioners by the plan commission and the board of commissioners has taken action thereon. The plan commission shall submit recommendations for the zoning of the annexed area within three (3) months after the date of annexation if it was not in the extraterritorial jurisdiction.

Sec. 27-5. - Parking.

(a) A plan of parking facilities shall accompany each application for a building permit or certificate of occupancy. The completion of the improvements for parking according to such plan shall be a requisite for the validity of the permit or certificate.

(b) The board of city commissioners may authorize a special permit to allow a commercial parking lot in a residence zone for the purpose of meeting the requirements of this section, subject to the following limitations:

(1) Public notice must be given and a public hearing held by the zoning board of adjustment on the request for a special permit in the same manner in which said notice is given and such hearing is held on a request for a variance.

(2) Notice must be given by registered mail to all owners of property lying within two hundred fifty (250) ~~three hundred (300)~~ feet of the land for which the special permit is sought.

(3) A special permit shall not be granted unless the application show[s] and warrants that in the proposed development of the parking area, that front and side yards will be met and maintained, and that the area will be paved with asphalt or concrete and adequately drained; and furthermore, that the parking area be screened from the street with a wall or planting, or both, having a height of not less than four (4) feet; and that such screen will also be placed along the parking area adjacent to residence lots; and that any lights used to illuminate such parking area shall be so arranged as to reflect the lights away from the adjoining premises in the residence district.

These limitations do not apply to parking areas associated with conditional uses in residential districts. Such parking areas shall be considered a conditional use and follow the regulations governing such.

(g) For any use or building not provided for above, the off-street parking requirements shall be determined by the administrative officer, ~~board of city commissioners~~, using as a guide the aforementioned use and requirements which most closely resemble the proposed use.

27-8. - Building permits and use permits.

(a) *Building permit*: No building or structure shall hereafter be erected or structurally altered until a building permit has been ~~shall be~~ issued by the administrative officer stating that the building or structure, and use of land comply with the regulations of this chapter and all building and health laws and ordinances.

All applications for building permits shall be accompanied by a site plan ~~plat~~ in duplicate drawn to scale showing the actual dimensions of the lot or lots to be built upon, the size of the building or structure to be erected or structurally altered, its location on the lot or lots and such other information as may be necessary to provide for the enforcement of these regulations. A careful record of such applications and plats shall be kept in the office of the administrative officer.

27-12. - Amendments and conditional uses.

(a) *Amendments*: The regulations imposed and the districts created under this ordinance may be amended by ordinance, but no such amendment shall be made without public notice and without a public hearing before the plan commission.

At least ten (10) ~~fifteen (15)~~ days' notice of the time and place of such hearing shall be published in the official newspaper of the City of Yankton, said notice to contain the particular location for which the amendment is requested, as well as a brief statement describing the proposed amendment.

(c) [*Special consideration for conditional uses*:] Conditional uses referred to in this chapter possess unique characteristics making it impractical to include them in a specific use district. These uses require special consideration since they can create problems of control to abutting use districts and may be granted by the board of city commissioners provided that all of the following requirements are met:

- (1) The use will not interfere with surrounding use districts.
- (2) The use is so located, site planned, and designed to avoid undue noise, odor, smoke or other nuisances and dangers to other abutting properties.
- (3) Meets all applicable laws of the State of South Dakota and the City of Yankton.
- (4) Adequate waste treatment, utilities, and roadways can be provided.

Any conditional use which has ceased by discontinuance, abandonment or for which the use has not commenced after permitting for the period of one (1) year shall thereafter conform to the provisions of this chapter.

27-13. - Rezoning.

Prior to the introduction of any ordinance proposing changes in the zoning ordinance there shall first be filed with the city finance officer the written consent of ~~sixty (60) forty (40)~~ percent of the owners of equity in the lots included in any proposed district and the lands within two hundred and fifty (250) ~~one hundred and fifty (150)~~ feet from any part of such proposed district measured by excluding streets and alleys.

A corporation shall be construed to be a sole owner. When parcels of land are in the name of more than one (1) person, ownership representation shall be in proportion to the number of signers who join in the petition in relation to the number of owners.

Proposed changes introduced by the city, a municipal corporation, and properties within one (1) year after annexation shall be exempt from the provisions of this section

27-31 R-1 single-family

(D) Conditional Uses and Structures

(9) Nursery schools, day care centers, or nurseries provided there is a minimum of one hundred (100) square feet of outdoor play area for each child to be cared for in the rear or side yard, and that the play area is fenced with a four (4) foot or taller fence ~~and screened with planting~~ from any adjoining lot ~~in any R residential district.~~

(E) Minimum Lot Requirements

(2) Minimum lot width—Eighty (80) feet as measured at the setback line.

(F) Minimum Yard Requirements

(3) Rear yard: Rear yard decks and patios maintained as open space without walls ~~not may~~ include a roof, shade feature or canopy and may encroach fifteen (15) ~~ten (10)~~ feet into the required rear yard setback. Rear yard decks are prohibited from occupying any required side yard setback. Yards on corner lots where a clearly identified and occupied rear yard space does not meet the required setback and is not less than 15 feet may be considered the rear yard of a property.

~~(H) Name plates not exceeding two (2) square feet in area shall be permitted for each dwelling unit. See the applicable chapter Chapter 20-1/2 of the City Code of Ordinances.~~

27-32 R-2 single-family

(D) Conditional Uses and Structures

(9) Nursery schools, day care centers, or nurseries provided there is a minimum of one hundred (100) square feet of outdoor play area for each child to be cared for in the rear or side yard, and that the play area is fenced with a four (4) foot or taller fence ~~and screened with planting~~ from any adjoining lot ~~in any R residential district.~~

(E) Minimum Lot Requirements

(2) Minimum lot width—Sixty (60) feet on interior lots as measured at the setback line. Sixty-five (65) feet on corner lots.

(F) Minimum Yard Requirements

(3) Rear yard: Rear yard decks and patios maintained as open space without walls ~~not~~ may include a roof, shade feature or canopy and may encroach fifteen (15) feet ~~(10)~~ feet into the required rear yard setback. Rear yard decks are prohibited from occupying any required side yard setback. Yards on corner lots where a clearly identified and occupied rear yard space does not meet the required setback and is not less than 15 feet may be considered the rear yard of a property.

~~(H) Name plates not exceeding two (2) square feet in area shall be permitted for each dwelling unit. See the applicable chapter Chapter 20-1/2 of the City Code of Ordinances~~

27-33 R-3 two-family

(D) Conditional Uses and Structures

(9) Nursery schools, day care centers, or nurseries provided there is a minimum of one hundred (100) square feet of outdoor play area for each child to be cared for in the rear or side yard, and that the play area is fenced with a four (4) foot or taller fence ~~and screened with planting~~ from any adjoining lot ~~in any R residential district.~~

(E) Minimum Lot Requirements

(2) Minimum lot width—Sixty (60) feet on interior lots as measured at the setback line. Sixty-five (65) feet on corner lots.

(F) Minimum Yard Requirements

(3) Rear yard: Rear yard decks and patios maintained as open space without walls ~~not may~~ include a roof, shade feature or canopy and may encroach fifteen (15) ~~ten (10)~~ feet into the required rear yard setback. Rear yard decks are prohibited from occupying any required side yard setback. Yards on corner lots where a clearly identified and occupied rear yard space does not meet the required setback and is not less than 15 feet may be considered the rear yard of a property.

(H) ~~Name plates not exceeding two (2) square feet in area shall be permitted for each dwelling unit.~~ See the applicable chapter Chapter 20 1/2 of the City Code of Ordinances.

27-34 R-4 multiple-family

(B) Permitted Principal Uses and Structures

(3) ~~Boarding or lodging home.~~

(D) Conditional Uses and Structures

(9) Nursery schools, day care centers, or nurseries provided there is a minimum of one hundred (100) square feet of outdoor play area for each child to be cared for in the rear or side yard, and that the play area is fenced with a four (4) foot or taller fence ~~and screened with planting~~ from any adjoining lot ~~in any R residential district.~~

(E) Minimum Lot Requirements

(2) Minimum lot width—Sixty (60) feet on interior lots as measured at the setback line. Sixty-five (65) feet on corner lots.

(F) Minimum Yard Requirements

(3) Rear yard: Rear yard decks and patios maintained as open space without walls ~~not may~~ include a roof, shade feature or canopy and may encroach fifteen (15) ~~ten (10)~~ feet into the required rear yard setback. Rear yard decks are prohibited from occupying any required side yard setback. Yards on corner lots where a clearly identified and occupied rear yard space does not meet the required setback and is not less than 15 feet may be considered the rear yard of a property.

(H) ~~Name plates not exceeding two (2) square feet in area shall be permitted for each dwelling unit.~~ See the applicable chapter Chapter 20 1/2 of the City Code of Ordinances.

27-35 B-1 local business district

(D) Conditional Uses and Structures

(9) Nursery schools, day care centers, or nurseries provided there is a minimum of one hundred (100) square feet of outdoor play area for each child to be cared for in the rear or side yard, and that the play area is fenced with a four (4) foot or taller fence and screened with planting from any adjoining lot ~~in any R residential district.~~

(E) Minimum Lot Requirements

(2) Minimum lot width—Sixty (60) feet on interior lots as measured at the setback line. Sixty-five (65) feet on corner lots.

(H) ~~Name plates not exceeding two (2) square feet in area shall be permitted for each dwelling unit.~~ See the applicable chapter Chapter 20-1/2 of the City Code of Ordinances.

27-36 B-2 highway business district

(B) Permitted Principal Uses and Structures

(5) Kennels

(E) Minimum Lot Requirements

(2) Dwelling Units:

(b) Minimum lot width—Sixty (60) feet on interior lots as measured at the setback line. Sixty-five (65) feet on corner lots.

(H) ~~Name plates not exceeding two (2) square feet in area shall be permitted for each dwelling unit.~~ See the applicable chapter Chapter 20-1/2 of the City Code of Ordinances.

27-37 B-3 central business district

(B) Permitted Principal Uses and Structures

(1) One- and two-family dwellings provided they meet the yard and open space requirements of the R-2 single-family district.

(2) Multiple-family dwellings provided they meet the yard and open space requirements of the R-4 multiple-family district.

(D) Conditional Uses and Structures

~~(6) One- and two-family dwellings provided that dwelling units erected or structurally altered in this district shall meet the same lot, yard, and open space requirements as applied in the R-2 single family district.~~

(E) Minimum Lot Requirements

None

(1) Dwelling Units:

(a) Minimum lot width—Sixty (60) feet on interior lots as measured at the setback line. Sixty-five (65) feet on corner lots.

~~(H) Name plates not exceeding two (2) square feet in area shall be permitted for each dwelling unit. See the applicable chapter Chapter 20 1/2 of the City Code of Ordinances.~~

27-38 I-1 industrial

(B) Permitted Principal Uses and Structures

(5) Kennels

~~(H) Name plates not exceeding two (2) square feet in area shall be permitted for each dwelling unit. See the applicable chapter Chapter 20 1/2 of the City Code of Ordinances.~~

27-39 I-2 industrial park

(B) Permitted Principal Uses and Structures

(5) Kennels

~~(H) Name plates not exceeding two (2) square feet in area shall be permitted for each dwelling unit. See the applicable chapter Chapter 20 1/2 of the City Code of Ordinances.~~

Section 2. Saving Clause.

Should any section, clause, or provision of this ordinance be declared by the Courts to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof, other than the part so declared to be invalid.

Section 3. Effective Clause.

This ordinance shall be in full force and effect from and after its passage, approval and publication as required by law.

Adopted:

1st Reading:

2nd Reading:

Publication Date:

Effective Date:

Nancy Wenande, Mayor

Attest:

Al Viereck, Finance Officer