

Title 15

BUILDINGS AND CONSTRUCTION

Chapters:

- 15.04 Construction Codes**
- 15.08 Building Permits**
- 15.12 Fire Limits**
- 15.16 Flood Damage Prevention**

Chapter 15.04

CONSTRUCTION CODES

Sections:

- 15.04.010 International codes adopted.**
- 15.04.012 IBC Chapter 3, Section 312 Utility and Miscellaneous Group U—Amended.**
- 15.04.020 Uniform Code for the Abatement of Dangerous Buildings adopted.**
- 15.04.030 Violation.**
- 15.04.040 Other remedies.**

15.04.010 International codes adopted.

A. There is adopted by the city, that certain code known as the International Residential Code for One- and Two-Family Dwellings, International Fire Code, International Fuel Gas Code, International Energy Conservation Code, International Wildland-Urban Interface Code, International Existing Building Code, International Code Council Performance Code for Buildings and Facilities, International Green Construction Code, and appendixes thereto, as well as the adoption of basic fire protection code of the State of South Dakota, as amended; the adoption of the South Dakota State Plumbing Code, as amended; and the state of South Dakota Electrical Code, as amended which above named codes shall be adopted by the reference as if fully set forth herein; and shall be further subject to future amendments and revisions thereof, which said amendments shall upon enactment become a part of this chapter without further resolution or ordainment on the part of the city. Specific local ordinances which modify said codes shall govern, but where local ordinances are silent the codes aforementioned shall govern and apply.

B. International Building Code (IBC) 2012 adopted. That certain code known as the International Building Code, 2012 Edition, and appendixes thereto, is hereby adopted by the city, and the printed copyrighted copy of such Code, which is on file in the office of the building official of the city, is adopted and incorporated as fully as if set out at length herein. Such Codes shall be enforced by the building official of the city. (Ord. 741, 2014; Ord. 392 (part), 1993: prior code § 8-101)

15.04.012 IBC Chapter 3, Section 312 Utility and Miscellaneous Group U—Amended.

IBC Chapter 3, Section 312 Utility and Miscellaneous Group U, is hereby amended to read as follows:

SECTION 312 UTILITY AND MISCELLANEOUS GROUP U

312.1 General. Buildings and structures of an accessory character and miscellaneous structures not classified in any specific occupancy shall be constructed, equipped and maintained to conform to the requirements of this code commensurate with the fire and life hazard incidental to their occupancy. Group U shall include, but not be limited to, the following:

15.04.012

Agricultural buildings

Aircraft hangars, accessory to a one- or two-family residence (see Section 412.5)

Barns

Carports

Fences more than 6 feet (1829 mm) in height

Grain silos, accessory to a residential occupancy

Greenhouses

Livestock shelters

Private garages

Retaining walls

Sheds

Stables

Tanks

Towers

Camping Cabins

312.2 Camping Cabins. Camping cabins must have an egress window or door in each sleeping area, a smoke detector in each sleeping area, interior and exterior light, interior and exterior plug-ins, the unit number on each cabin, rodent protection, a fire extinguisher in each unit, and accessible units shall be provided as per Table 1107.6.1. (Ord. 756, 2014)

15.04.020 Uniform Code for the Abatement of Dangerous Buildings adopted.

There is adopted by the city that certain code known as the Uniform Code for the Abatement of Dangerous Buildings, 1976 Edition, promulgated, proved and published by the International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California, as from time to time amended, a copy of which is adopted by this reference as if fully set forth in this chapter, and a copy of said code shall be on file in the office of the city finance officer. (Prior code § 8-110)

15.04.030 Violation.

Any violation of this chapter shall be deemed a continuing violation for every twenty-four (24) hour period that the guilty party fails to comply and every twenty-four (24) hour period of non-compliance shall constitute a separate and distinct offense. (Prior code § 8-108)

15.04.040 Other remedies.

Nothing herein shall preclude the city from exercising any and all remedies available to the city under state law. (Prior code § 8-109)

Chapter 15.08

BUILDING PERMITS*

Sections:

- 15.08.010** **Required--Exceptions.**
- 15.08.020** **Application.**
- 15.08.030** **Appeal.**
- 15.08.040** **International Building Code controlling.**
- 15.08.050** **Fees.**
- 15.08.055** **Carports.**
- 15.08.060** **Frost footings.**
- 15.08.070** **Violation.**
- 15.08.080** **Other remedies.**
- 15.08.090** **Metal raceway.**
- 15.08.100** **Certificates of zoning compliance for new, altered or nonconforming uses.**
- 15.08.110** **Sign regulations.**

* Prior history: Prior code §§ 8-103--8-107.

15.08.010 **Required--Exceptions.**

A. Permits Required. Except as specified in subsection B of this section, no building or structure regulated by this code shall be erected, constructed, enlarged, altered, repaired, moved, improved, removed, converted or demolished unless a separate permit for each building or structure has first been obtained from the building official.

B. Work Exempt from Permit. A building permit shall not be required for the following:

1. One-story detached accessory buildings used as tool and storage sheds, playhouses and similar uses, provided the projected roof area does not exceed one hundred twenty (120) square feet;
2. Fences not over six feet high;
3. Oil derricks;
4. Movable cases, counters and partitions not over five feet nine inches high;
5. Platforms, walks and driveways not more than thirty (30) inches above grade and not over any basement or story below;
6. Painting, papering and similar finish work;
7. Temporary motion picture, television and theater stage sets and scenery;
8. Window awnings supported by an exterior wall of Group R, Division 3, and Group M occupancies when projecting not more than fifty-four (54) inches;
9. Prefabricated swimming pools accessory to a Group 4, Division 3 occupancy which the pool walls are entirely above the adjacent grade and if the capacity does not exceed five thousand (5,000) gallons.

Unless otherwise exempted, separate plumbing, electrical and mechanical permits will be required for the above exempted items.

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Exemption from the permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction.

C. Notwithstanding the foregoing provisions, no permit shall be required for siding, shingling, painting or any normal maintenance repairs or for the construction of landscaping, or patio; or temporary portable steps not exceeding fifty (50) square feet in dimension for mobile homes; or for any situations exempted from permit requirements in International Building Code.

D. It shall be further unlawful to construct or alter any building which does not comply with the plans and specifications or detailed statement contained in the application for permit.

E. Construction for which a building permit has been issued shall be given one year to complete. One and only one extension of one hundred eighty (180) days may be granted in the event that construction is not completed within one year. In order to complete a project after an extension has once been granted, a new permit will be required with a permit fee based on the amount of work remaining.

A fee of twenty-five dollars (\$25.00) will be charged to extend the permit for an additional one hundred eighty (180) days. (Ord. 742, 2014; Ord. 648 (part), 2008; Ord. 527, 2000; Ord. 526, 2000; Ord. 392 (part), 1993; prior code § 8-102)

15.08.020 Application.

A written application for such permit shall be made at city hall, signed by the owner of the land or lot upon which the building is situated or is to be situated, or by the lessee, or by the agent of either. The application shall state the name and address of the owner of the land or lot upon which the building is situated or is to be situated, the names and addresses of the architect, builder, electrician and plumber employed thereon, the lot and block numbers, the name of the addition, site plan, a statement of the nature and proposed use of such building or structure, and a sketch showing floor plan and electric wiring and plumbing. It shall also give the greatest length, width and height of the building, the number of rooms, the kind of material or materials used or to be used, and specifications for wiring and plumbing used in the construction or alteration. No building permit shall be issued until a site plan is filed with and approved by the planning administrator or designee. Should the application be in accordance with the terms of this chapter, the planning administrator shall, without delay, issue a permit as requested. If for any reason the planning administrator shall refuse to grant a permit, the administrator shall state in writing the reasons for such refusal. The building permit application form, miscellaneous permit application form, certificate of occupancy application form, and the sign permit application form are attached to the ordinance codified in this section as Exhibit I. (Ord. 402 (part), 1993)

15.08.030 Appeal.

If the planning administrator or assigned designee refuses to issue a building permit, the refusal may be appealed to the city planning commission and common council. Their decision shall be final. (Ord. 402 (part), 1993)

15.08.040 International Building Code controlling.

In matters pertaining to building not covered by the ordinances of the city, the planning administrator or assigned designee shall be guided by the most current editions of the International Building Codes. (Ord. 742, 2014; Ord. 402 (part), 1993)

15.08.050 Fees.

Fees shall be assessed as follows:

A. Plan Review Fees.

1. Plan review fees are included within the fees for building permits, but up to twenty-five dollars (\$25.00) of the permit fee may be collected at the time the application is submitted. The building official shall have the option to require that up to fifteen (15) percent of the estimated permit fee may be required at the time the application is made. Further, such fees collected for plan review are not refundable but will constitute part of the building permit fee when the fee is collected.

2. The plan review fees specified in this section are separate and in addition to the fees specified in the permit fees.

3. Where plans are incomplete or changed so as to require additional plan review, an additional plan review fee shall be charged at the rate shown in Table 15.08.050.

B. Permit Fees.

1. The fee for each permit shall be as set forth in Table 15.08.050. The determination of value or valuation under any of the provisions shall be made by the planning administrator. The value to be used in computing the building permit and building plan review fees shall be the total value of all construction work for which the permit is issued, as well as all finish work, painting, roofing, electrical, plumbing, heating, air conditioning, elevators, fire extinguishing systems and any other permanent equipment.

2. There will be no fees charged for one identification sign license and the occupancy or certificate of zoning compliance for all new structures or facilities.

3. Remodeling work shall be issued a permit and fee charged based on the applicant's estimate of value or work to be performed. The building official shall determine if such estimate is fair and reasonable.

C. Easement, Encroachment, and Street/Alley Vacation. The fee for each request brought before the planning department for easements, encroachments or right-of-way vacations is four hundred dollars (\$400.00).

D. Subdivision Fee. The fee for subdivision of real estate is four hundred dollars (\$400.00) plus twenty-five dollars (\$25.00) per lot, which includes a study and review of the preliminary plat, a study and review of the final plat, and recording the final plat. Each in-city lot shall also be assessed a one hundred dollar (\$100.00) fee to be paid into General Fund for the development and maintenance of stormwater mitigation, parks, and roads. All subdivision fees shall be paid at the time of preliminary plat submittal. All recording fees at the Custer County register of deeds office shall be paid to the city finance office and the final plat will be submitted to the Custer County register of deeds to the city planning department.

E. Variance Fee. The fee for each variance request to any regulation of the city is one hundred fifty dollars (\$150.00).

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F. Permitted Conditional Use. The fee for each permitted conditional use is two hundred dollars (\$200.00).

G. Zoning Map Change or Zoning Text Change. The fee for each zoning map change or zoning text change is four hundred dollars (\$400.00).

H. Demolition Permit Fee. There shall be a charge of fifty dollars (\$50.00) to demolish any structure or facility. A permit must be obtained.

I. Flood Plain Development Permit Fee. All work in a designated flood area within the city requires a permit. The fee for the permit is twenty-five dollars (\$25.00).

J. Sign Permit Fee. The fee for each new sign that is erected or installed shall be seventy-five dollars (\$75.00), except where a sign or sign structure requires that a building permit be obtained, then the building permit fee shall be the sign permit fee. A change in the name of the commercial entity, or a change in the size of the sign, shall constitute a new sign.

K. Investigation Fees--Work Without a Permit.

1. Whenever any work for which a permit is required by the International Building Code has been commenced without first obtaining a permit, a special investigation shall be made before a permit may be issued for such work.

2. An investigation fee, in addition to the permit fee, shall be collected whether or not a permit is then or subsequently issued. The investigation fee shall be equal to the amount of the permit fee required. The minimum investigation fee shall be the same as the minimum fee set forth in Table 15.08.050. The payment of such investigation fee shall not exempt any person from compliance with all other provisions of the International Building Code nor from any penalty prescribed by law.

3. The planning administrator may authorize refunding of any fee paid hereunder which was erroneously paid or collected.

Table 15.08.050

Building permit fees and other inspections and fees, where applicable, shall be at the established rates set forth in the International Building Code, Latest Version, as adopted by the city council, and all acts amendatory thereto.*

1. Request for special planning meetings shall be two hundred fifty dollars (\$250.00) per meeting.*

* Or the total hourly cost to the city, whichever is greatest. This cost shall include supervision, overhead, equipment, hourly wages and fringe benefits of the employee involved.

Valuation for determining permit fees shall be based on the most recent "Building Valuation Data" as published in Building Standards, a publication of the International Conference of Building Officials. A public copy of the most recent "Building Valuation Data" table will be available from the city planning administrator's office. The "Building Valuation Data" has an adjustment factor for South Dakota valuations which will be used in determining new construction values.

Building Permit Fees	
Total Valuation	Fee
\$0.00 to \$5,000.00	\$50.00
\$5,001.00 to \$10,000.00	\$150.00
\$10,001 and up	\$150.00 plus \$6.50 per \$1000.00 or fraction thereof plus on all new construction, \$2.00 for each additional \$1,000.00 or fraction thereof, paid into the general fund for development and maintenance.
Residential roofing	\$25.00
Other Inspection Fees	
1. Inspections outside of normal business hours (minimum charge - two hours)	\$75.00 per hour
2. Reinspection fees	\$75.00 per hour
3. Inspections for which no fee is specifically indicated (minimum charge - one hour)	\$75.00 per hour
4. Additional plan review required by changes, addition or revisions to approved plans (minimum charge - one hour)	\$75.00 per hour

Or the total hourly cost to the city, whichever is greatest. This cost shall include supervision, overhead, equipment, hourly wages and fringe benefits of the employees involved.
(Ord. 764 (part), 2015; Ord. 742, 2014; Ord. 733, 2013; Ord. 721, 2012; Ord. 648 (part), 2008; Ord. 583, 2003; Ord. 509, 1999; Ord. 508 (part), 1999; Ord. 427, 1995; Ord. 413, 1994; Ord. 402 (part), 1993)

15.08.055 Carports.

All manufactured steel carport structures shall be erected and anchored according to manufacturers' specifications. These structures shall also meet a minimum snow loading of 30 pounds per square foot.

Manufactured steel carports may be placed with setbacks of ten feet to the back property line, six feet on the side property lines and 20 feet to the front property line. This will apply to open sided manufactured steel carports only. No wood structures with wood posts shall be allowed under this section of the code.

No carport that is sided will be allowed under this section and will fall under the 2012 IBC code section 406 to include 406.3.1 through 406.3.5.

Prior to placement of a manufactured carport structure, the property owner shall apply for a special permit from the city building department. If granted, the fee for such permit shall be twenty-five dollars (\$25.00). (Ord. 752, 2014)

15.08.060

15.08.060 Frost footings.

All construction which requires the use of frost footings shall have said frost footings constructed from ground level to a minimum depth of at least forty-eight (48) inches or to bedrock, whichever shall first occur. (Ord. 438, 1995)

15.08.070 Violation.

Any violation of this chapter shall be deemed a continuing violation for every twenty-four (24) hour period that the guilty party fails to comply and every twenty-four (24) hour period of noncompliance shall constitute a separate and distinct offense. (Prior code § 8-108)

15.08.080 Other remedies.

Nothing herein shall preclude the city from exercising any and all remedies available to the city under state law. (Prior code § 8-109)

15.08.090 Metal raceway.

A. All electrical wiring within the fire limits of Custer City which is intended as power conductors shall be installed in:

1. Metal raceways; or
2. Flexible metal raceways; or
3. Nonmetallic raceways encased in not less than two inches of concrete.

B. Installation shall be in conformance with the requirements of the current National Electric Code as adopted by the state of South Dakota. Nothing in this section is intended to reduce the requirements of the National Electric Code or requirements of the Wiring Bulletin of South Dakota. (Ord. 525, 2000)

15.08.100 Certificates of zoning compliance for new, altered or nonconforming uses.

A. It is unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged, in its use or structure until a certificate of zoning compliance shall have been issued therefor by the planning administrator stating that the proposed use of the building or land conforms to the requirements of this title.

B. No permit for erection, alteration or moving of any building shall be issued until an application has been made for a certificate of zoning compliance and the certificate shall be issued in conformity with the provisions of this title upon completion of the work.

C. A temporary certificate of zoning compliance may be issued by the planning administrator for the period of construction, alterations or partial occupancy of a building pending its completion; provided, that such temporary certificate may include such conditions and safeguards as will protect the safety of the occupants and the public.

D. The planning administrator shall maintain a record of certificates of zoning compliance.

E. Failure to obtain a certificate of zoning compliance shall be a violation of this title and punishable under provision of this title. (Ord. 557, 2002)

15.08.110 Sign regulations.

Purpose and intent.

Signs provide an important medium through which individuals may convey a variety of noncommercial and commercial messages. However, left unregulated, signs can become a threat to public safety as well a traffic hazard. Such signs may also constitute an aesthetic nuisance and be a detriment to property values and the welfare of the public. Uncontrolled and unlimited signs degrade the attractiveness of the natural and manmade attributes of the community and thereby undermine the economic value of tourism, visitation, and permanent economic growth. Through fair and consistent regulation of advertising signs, the attractiveness and economic wellbeing of the City of Custer City will be enhanced as a place to live, work and conduct business, and provide an equal measure of advertising for community businesses.

The intention of enacting this ordinance is to:

1. Balance the rights of individuals to convey their message through signs and the right of the public to be protected against the unrestricted proliferation of signs;
2. Further the objectives of the city's comprehensive plan;
3. Protect the public health, safety, welfare, and aesthetics of the city;
4. Reduce traffic and pedestrian hazards;
5. Maintain the historical image of the city;
6. Protect property values by minimizing the potentially adverse effects and visual blight caused by signs;
7. Promote economic development.

A. Definitions

"Planning administrator". The official designated by the city council to administer the city's sign regulations.

"Sign, advertising". A piece of paper, wood, or other material, with words or pictures on it, that provides information to the public about a business, activity or event that is available on a specific property or a general area.

"Sign, 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 triangle, rectangle or circle that can be used to enclose that which the advertisement is composed of, exclusive of the supporting structure that bears no message. Three dimensional signs shall be treated as dual-faced signs, such that the total area shall be twice the area of the smallest triangle, rectangle or circle which can totally circumscribe the sign in the plane of its largest dimension.

"Sign, alteration". Any change of copy, sign face, color, size, shape, illumination, location, construction, or supporting structure of any sign.

"Sign, animated". A sign that uses movement, lighting or special materials to depict action or create a special effect to imitate movement.

"Sign, area identification". A sign to identify a common area containing a group of structures, or a single structure, such as a residential subdivision, apartment complex, industrial park, or shopping center, located at the entrance or entrances of the area.

"Sign, banner". A temporary sign, banner, wave banner, flag or pennant composed of lightweight material enclosed or unenclosed in a rigid frame, secured or mounted in a temporary manner for special event advertising.

"Sign bench". A bench provided for the pedestrian public which contains on-premise advertising.

"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.

"Sign, building marker". Any sign, stone or monument mounted to a structure indicating the name of a building date or incidental information about its construction.

"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.

"Sign, construction/development". A sign stating the names of the developers, contractors, engineers or architects, during the time that construction or development is actively underway.

"Sign, directional". Used to give directions to or location of a specific place giving the name of the site and the mileage or distance, route numbers, and exit numbers.

"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 (45) degrees or less.

"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.

"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.

"Sign, exteriorly illuminated". A sign where artificial light projects from within or onto the sign copy. Exterior illumination is a light source that is visible exterior to the sign.

"Sign, flashing". An illuminated sign on which artificial light is not maintained stationary and/or constant in intensity and color.

"Sign, freestanding or pole". A sign which is supported by one or more uprights, poles, or braces in or upon the ground.

"Sign, future tenant". An on-premise temporary sign that identifies the names of future businesses.

"Sign, garage/yard sale". A private sale of personal property used to dispose of personal household possessions and not for the use of any commercial venture.

"Sign, governmental". A sign erected by a government agency or its designee, setting forth information pursuant to law and/or ordinance.

"Sign, grand opening". A one-time promotional activity not exceeding thirty (30) calendar days used by newly established businesses location within two (2) months after occupancy to inform the public of their location and service available to the community.

"Sign, ground". A sign where the bottom coping is less than twenty-four inches (24") from the grade below.

"Sign, inflatable". An object bearing advertisement that is inflated with air or gas.

"Sign, internally illuminated". 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.

(Custer Supp. No. 14, 3-16)

"Sign, maintenance". The repair or replacement of individual sign components including paper, fabric or plastic copy panels, electrical wiring and bulbs, or paint, stucco or other exterior finishes.

"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 ten feet (10') from the ground to the lowest point of the marquee structure.

"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.

"Sign, multi-faced". A two (2) sided sign which is the same on both sides. The single structural component is counted as one (1) sign.

"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.

"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. The following shall not be considered an off-premise sign:

- (1) Direction or official signs authorized by law;
- (2) Real estate signs;
- (3) Political signs.

"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.

"Sign, pennant". Any lightweight plastic, fabric or other material, whether or not containing a message of any kind, suspended from a rope, wire, string or pole designed to move in the wind.

"Sign, permanent". A sign constructed from metal, wood, vinyl or plastic, or any combination thereof, which is constructed and affixed to the building or supporting structure in a manner approved by the planning administrator or his/her designee.

"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.

"Sign, political". A sign designed for the purpose of advertising support of or opposition to a candidate or proposition for a public election.

"Sign, portable". A sign designed to be movable from one place to another, which is not affixed to the ground or structure.

"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 of ten feet (10) above ground level.

"Sign, real estate". A sign offering property (land and/or buildings) for sale, lease, or rent.

"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.

"Sign, roof". A sign erected or attached in whole or in part upon the roof of a building.

"Sign, structure". Any structure which supports, has supported, or is capable of supporting single or multiple signs.

"Sign, temporary". Signs 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.

"Sign, time and temperature". A sign or portion of a sign displaying only current time and temperature in an electronic, digital fashion.

"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 billboard sign.

(b) A trailer or semi-trailer unit that is currently commercially licensed and operable shall be considered a billboard sign.

"Sign, vehicle". A sign placed, painted, attached, or displayed on a vehicle advertising a company, store, or service.

"Sign, wall". A sign which is attached directly to or painted upon a building wall, and which does not extend more than six inches (6") from the wall, nor extends above the roofline.

"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.

B. General sign regulations

1. In any area where advertising signs are permitted, all applicable state and federal regulations shall apply.

2. Vehicle roof mounted signs for taxis and delivery vehicles shall not exceed three (3) square feet. Vehicle roof signs are required to be manufactured for vehicle roof placement.

3. Advertising signs strapped or tied to the roof of any vehicle or on any other conveyance and parked in any public right-of-way shall be prohibited.

4. Building roof signs shall be architecturally integrated into the roof structure design, with additional roof loads, wind loads and snow drifting loads taken into consideration, and in no case shall the sign extend above the building roof line.

5. Signs shall be placed adjacent to the street upon which the sign allowance was calculated.

6. Sign structures housing signs for single or multiple businesses, and pole signs greater than ten feet (10') in height and sixteen (16) square feet in area, shall be considered a commercial structure and regulated through the building permit process. Sign regulations shall apply.

7. Painting any advertising upon a public sidewalk is prohibited.

8. Signs shall not overhang into or be placed in any dedicated public right-of-way except as allowed by that governmental entity having jurisdiction over that right-of-way.

9. Signs shall not overhang into or over adjoining property, without proof of written approval by that adjoining property owner.

10. Signs established by, or by order of, any governmental agency.

11. No sign shall 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.

(Custer Supp. No. 14, 3-16)

12. Animated signs shall not be placed in any manner as to cause distraction to vehicle traffic. Animated signs identified to be so placed shall be considered a public nuisance and caused to be immediately removed.

13. Sign benches displaying advertising may be located only on commercial premises. The display area on any sign bench shall not exceed twelve (12) square feet. No more than three (3) sign benches shall be located on any premises. Benches placed upon the SD-DOT right-of-way are subject to SD-DOT regulations. Sign benches displaying off-premise advertising shall be considered an off-premise sign.

C. Maintenance.

1. All signs and sign structures shall be in good repair, and shall be maintained so as to protect from deterioration, damage, decay and/or abandonment.

2. All signs shall be maintained. If any sign fails to be maintained by the owner, the planning administrator shall notify the owner of the sign that the sign is in violation of this section, and that if the violation is not corrected within thirty (30) days, the sign will be subject to immediate removal.

3. All signs structures shall display message. If any sign fails to display a message for thirty (30) consecutive days, the planning administrator shall notify the owner of the sign that the sign is in violation of this section, and that if the violation is not corrected within thirty (30) days, the sign will be subject to immediate removal.

D. Billboard signs. On-premise and off-premise billboard signs shall not be placed anywhere within the city limits of Custer City.

E. Electrical signs.

1. General regulations.

a. Electrical signs shall be constructed in accordance with the provisions of the Administrative Rules of South Dakota (ARSD) 20:44:22, the National Electrical Code and the city's Municipal Code. Signs constructed in a UL shop must be energized by a licensed electrician. If a sign is constructed in a shop that is not UL, then wiring of the sign and energizing of the sign must be done by a licensed electrician.

b. Electrical signs and outline lighting shall be marked with the manufacturers name, voltage input, and current rating. The marking required by this section and the label of a recognized testing lab, shall be located in a visible location and readable from both grade and the sign's electrical disconnect.

c. All metal parts of electrical signs and outline lighting shall be grounded in accordance with the National Electrical Code.

d. Each electrical sign or outline lighting system shall have an externally operable disconnect means located within sight of the sign or outline lighting transformer.

e. Electrical signs may be illuminated internally or externally so long as all lighting is directed away from the public right-of-way and adjacent residential areas.

2. Sign brightness.

a. Any sign that is internally illuminated, or which displays electronic variable messages through light emitting diodes, liquid crystal display, plasma image display, or any other light emitting mechanism must be equipped with automatic dimming technology that automatically adjusts the display's brightness based upon ambient light conditions. The brightness level for signs shall not exceed a brightness level of 0.3 foot candles above ambient light as measured using a foot candle (Lux) meter at standard preset distances.

b. Existing on-premise and off-premises signs displaying variable messages through the use of internal illumination technology or through light emitting diodes, liquid crystal displays, plasma image displays, or any other similar light emitting technology may only display static messages. Static copy on these signs may be changed at a minimum interval of eight (8) seconds. Full motion images, graphics or video are prohibited.

F. On-premise business signs in Highway Commercial and Industrial Districts.

1. Total allotted sign area shall be limited to three square feet (3 sq/ft) of sign space per one (1) lineal feet of commercial street frontage, except that any bona fide business shall have not less than fifty square feet (50 sq/ft) of sign space allotted to them. Where a parcel of land has reduced street frontage because it is located behind another parcel that abuts the street, the sign allotment shall be calculated from the width of the rear parcel for the length that it parallels the street it is accessed from.

2. Double-sided pole signs shall not exceed two-hundred square feet (200 sq/ft) of aggregate sign area and shall not exceed thirty feet (30') in height measured from the top of the sign.

3. Wall mounted signs shall be limited to one-hundred square feet (100 sq/ft). A wall sign may project not more than six (6) inches from the storefront.

4. Monument signs not to exceed one hundred square feet (100 sq/ft) 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 corner lot sightline regulations.

5. Double-sided projecting signs are allowed to have a maximum of fifty square feet (50 sq/ft) of sign area and shall be subject to the provisions of the Maintenance and Encroachment Agreement between the State of South Dakota and the City of Custer.

6. Signs shall be placed adjacent to the street upon which the sign allowance was calculated.

7. No sign or element thereof shall be constructed closer than five feet (5') to any property line.

8. Sign structures, pole signs and monument signs shall not be placed closer than seventy-five feet (75') to any other like sign structure, pole sign or monument sign.

9. Company emblems, logos, and trademark names architecturally designed into fuel station canopies do not count towards the aggregate sign area.

10. 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.

G. Off-premise signs in any zoned district.

1. All off-premise signs shall be subject to the conditional use permit regulations provided, however, that in no case shall an off-premise sign be approved that is larger than an on-premise sign that would be allowed on the property it is intended to serve.

2. All off-premise signs will be considered entirely upon their own merits with no other off-premise sign considered to be precedence.

3. Any motor vehicle or trailer that bears commercial advertisement that is located or placed on a property for the purpose of advertising, and which is not on the same lot as the business being advertised, shall be considered off-premise signage and off-premise advertising.

(Custer Supp. No. 14, 3-16)

H. Central Business District sign regulations.

1. Total allotted sign area shall be limited to two square feet (2 sq/ft) of sign area per one (1) lineal feet of commercial street frontage, except that any bona fide business shall have not less than fifty square feet (50 sq/ft) of sign area allotted to them.
2. Signs shall be placed adjacent to the street upon which the sign allowance was calculated.
3. Wall mounted signs are allowed to be a maximum of one-hundred square feet (100 sq/ft). A wall sign may project not more than six (6) inches from the storefront.
4. Double-sided projecting signs:
 - a. are allowed to have a maximum of fifty square feet (50 sq/ft) of aggregate sign area;
 - b. are allowed to project a maximum of seven feet (7') beyond the front of the building provided, however, any portion of the projecting sign, or any appurtenance thereto, may not be closer than three feet (3') to the face of the street curb as measured vertically from the adjacent grade;
 - c. Shall be at least eight feet (8') above adjacent grade to the lowest point of the sign;
 - d. A premises is allowed one projecting sign per street frontage.
5. Double-sided pole signs are allowed to have a maximum of fifty square feet (50 sq/ft) of sign area, not over thirty feet (30') in height, and shall be subject to the provisions of the Maintenance and Encroachment Agreement between the State of South Dakota and the City of Custer.
6. 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.
7. For each permitted or required off-street parking area that has a capacity of more than four (4) cars: one (1) sign not more than four square feet (4 sq/ft) in area, designating each entrance to or exit from such parking area; and one (1) sign, not more than four square feet (4 sq/ft) in area, identifying or designating the conditions of use of such parking area is permitted.
8. One (1) non-illuminated 'For Sale' or 'For Rent' sign not exceeding five square feet (5 sq/ft) in area and advertising the sale, rental or lease of the premises on which the sign is located is permitted.
9. Signs established by, or by order of, any governmental agency are permitted.

I. Residential District sign regulations.

1. Real estate signs shall not exceed ten (10) square feet in area and forty-two inches (42") in height.
2. Business signs which direct attention to a home occupation, where such is permitted, shall not exceed five square feet (5 sq/ft) in area, and shall be limited to one (1) such sign per approved home occupation use. No sign shall be placed closer than twenty-five feet (25') to any property line abutting a street.
3. Churches, hospitals, clinics or similar occupancies in residential districts shall not exceed twenty-five square feet (25 sq/ft) in area.
4. For each real estate subdivision that has been approved in accordance with the regulations of the City of Custer, one (1) area identification sign per entrance, not over thirty-two (32) square feet in area, advertising the sale of property in such subdivision. Permits for such signs shall be issued for a two (2) year period and may be renewed for additional two (2) year periods.

5. Subdivision entrance identification signs shall not exceed sixty-five (65) square feet in area, exclusive of the fence, wall, or sign structure on which the sign is attached to, and limited to one (1) sign per entrance. Placement of the sign shall be approved through the subdivision review process.

6. For construction on or development of a lot, signs not more than twelve square feet (12 sq/ft) in area, stating the names of contractors, engineers or architects, but only during the time that construction or development is actively underway.

7. Seasonal on-premise advertising signs, for agricultural products raised and/or cultivated on that land, not to exceed twelve square feet (12 sq/ft) in area.

8. Small directional signs shall not be greater than 18" x 24" rectangular or 18" in diameter. Directional signs shall require city approval.

9. Signs established by, or by order of, any governmental agency.

J. Temporary signs.

1. All temporary signs, pennants and banners shall be placed, built, erected, or moved onto site location in such a manner as to be easily removed.

2. 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:

a. Signs shall not exceed ten (10) square feet in area and forty-two inches (42") in height in residential districts or sixteen (16) square feet in all other zoned districts.

b. 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.

c. Signs shall not be placed in any unsafe manner or within any intersection sightline triangle.

d. These provisions do not apply to state right-of-ways.

3. Political or campaign 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.

4. Signs shall not be placed on another person's property without their consent.

5. The following items shall be considered on all temporary signs.

a. All signs shall be subject to the provisions of the Maintenance and Encroachment Agreement between the State of South Dakota and the City of Custer.

b. Temporary on-premise banners for special events, such as benefits, festivals or similar activity are allowed seven (7) days prior to any lawful event and must be removed from premise within two (2) business days of conclusion of the event unless otherwise expressly authorized in writing by the planning administrator.

c. Vinyl or cloth banners or pennants that are nailed, stapled, tacked or otherwise fastened to a structure beyond the allotted time period shall be considered a permanent sign, placed in violation of the permanent sign requirements, including permit requirements, and shall be subject to the \$75.00 fine for failing to obtain a sign permit. Signs so placed shall be removed upon notice by the city.

d. 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 planning administrator (permit required - no fee).

e. Banners which hang across public property shall have prior approval from the city council.

f. No sign, banner or pennant shall be placed within any right-of-way or on any public property or attached to any traffic sign, fire hydrant or light pole or placed in any manner that impedes or endangers pedestrian or vehicular traffic. Such signs shall be subject to immediate removal by the city and 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.

g. Where a sign or banner cannot be immediately removed by city crews or by contract, the owner of the sign shall be given notice of the violation and allowed five (5) days to correct the violation, the notice shall inform the property owner that failure to correct within the time given will result in the property owner being assessed the violation fee of seventy-five dollars (\$75.00).

h. 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.

i. Signs shall not be placed so that they create visibility problems or interfere with line of sight with any traffic sign or official signs.

j. Attention attracting devices must be approved by the planning administrator. The planning administrator shall consider the type of device, location and time duration proposed along with any other pertinent information.

6. Application and permitting.

a. Installation of new on-premise and off-premise signs are regulated by the Building Permit process. A 'Sign Permit' application shall be filled out by the applicant and submitted to the planning administrator for review, except that sign structures shall be considered to be a structure and a building permit will be required to be obtained.

b. Sign and sign structure applications shall be reviewed and approved within a reasonable time with the approved application serving as the sign permit, except that if an application is denied the application will be returned to the applicant with a written reason for the denial.

c. Sign permits and building permits shall be valid for not more than one hundred eighty (180) days. Where construction or installation has not started within one hundred eighty (180) days the permit shall be void and a new application for permit must be submitted. Where construction or installation has been suspended for more than one hundred eighty (180) days after construction has begun, but not completed, the permit shall be void and application for permit must be submitted.

K. Application fees.

1. A one (1) time fee shall be assessed per each issued new sign permit as follows:
 - a. On-premise signs: \$75.00/each new sign
 - b. Sign structures: \$75.00/sign +building permit fee
 - c. Off-premise signs: Conditional Use Permit fee + building permit fee
 - d. Temporary signs: no fee (permit is required)
2. Changing the face or copy of an existing conforming sign does not constitute a 'new sign' provided the size and location of the sign does not change.
3. Political signs, garage sale signs, and directional signs, as defined in this section, are exempt from fees.

L. Violations.

1. In addition to the provisions provided in Chapter 1.12 of the Custer Municipal Code, a property owner who is in violation of these sign regulations shall be given notice to correct or to abate the violation and shall be subject to a fine of seventy-five dollars (\$75.00) for each violation if not abated in the time allowed. Each day the violation continues beyond the date of official notice to correct or abate shall be considered a separate violation. Nothing in this ordinance shall be construed as to prevent or limit the city in seeking resolution through any other means provided by law.

2. Any person, firm or entity directly affected by such notice of violation shall have the right to appeal to the city council, provided that the application is filed with the city finance officer within fifteen (15) days of the date of the notice. Appeals shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means. Failure of any person to file an appeal within the specified time period shall constitute a waiver of the right to an administrative hearing and adjudication of the order or to any portion thereof.

M. Non-conforming, unsafe and unlawful signs.

1. Whenever it shall be determined by the planning administrator that any sign or billboard that has been constructed or erected, or is being maintained in violation of the terms of this section, or is unsafe, unsecured 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 planning administrator. Such sign shall be removed at the expense of the owner or lessee thereof.

2. If the planning 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 planning 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 owner's expense within a specified period of time stated on the Notice of Violation.

3. Signs which advertise an activity, business or service which has been discontinued for ninety (90) days or more, must remove the sign within thirty (30) days of the date of notification from the city.

4. Existing nonconforming signs shall constitute nonconforming use. Any lawful use or occupancy of land or premises existing at the time of the adoption of the sign ordinance may be continued, even though the use or occupation does not conform to the provisions of the ordinance. However, if the nonconforming use or occupancy is discontinued for a period of more than one (1) year, any subsequent use or occupancy shall conform with the sign ordinance. (Source: SDCL 11-2-26)

5. Nothing in this section shall prevent the city in taking immediate action to abate any threat to the life, health or safety of the public. (Ord. 764, 2015)

(Custer Supp. No. 14, 3-16)

Chapter 15.12

FIRE LIMITS

Sections:

15.12.010 Fire limits.

15.12.020 Type of buildings in fire district.

15.12.010 Fire limits.

That area in the city bounded and described as follows shall be and is designated the fire limit of the city:

All of that area in said city blocks 1, 8, and 16 fronting on Mt. Rushmore Road on the south and on Crook Street on the north, lying between 7th Street on the east and 4th Street on the west, and all of that area south of the alley running east and west in Block 9 bounded on the east by 8th Street and on the west by 7th Street; all of the area in said city in Blocks 105, 106, 115 and 116, fronting on Mt. Rushmore Road on the north and on Washington Street on the south, lying between 8th Street on the east and 4th Street on the west.

(Prior code § 8-301)

15.12.020 Type of buildings in fire district.

A. There shall not be erected or placed, built or rebuilt by any person, persons, firm, corporation or association of individuals, any wooden building, buildings, structure or edifice of any character within the fire limits as hereinafter provided. Every building, structure or edifice built, erected, rebuilt or placed within the fire limit as defined in this chapter, shall contain sidewalls with a minimum two-hour fire rating and all openings and other exterior walls which meet the minimum fire resistance rating or protection provisions of the Uniform Building Code. No sidewall, opening or other exterior wall shall be exempt except upon approval of the city council.

B. Wooden buildings, awnings or structures now in existence in the fire limit as defined in this chapter may remain or be repaired upon approval of the city council or South Dakota Department of Transportation (SD DOT); but no extensions or additions to any such buildings or structures shall be permitted unless meeting the minimum provisions of this section. No wooden building or structures of any kind may be removed from one (1) location within the fire limit to another location within the fire limit; provided, however, that the city council may in its discretion permit the placing of a temporary wooden building or structure within the fire limit; provided, that any permission so granted shall not in any event extend for a period of more than ninety (90) days, and no permit shall be permitted for any such temporary building or structure unless the person, persons, corporation, partnership or association of individuals to whom such permit is granted shall agree to remove any building or structure at the termination of the period for which the permit was granted or sooner if ordered by the council, and the council may in its discretion require that a bond be furnished in an amount sufficient to insure the removal of such building or structure.

(Ord. 743, 2014; Ord. 666, 2009; Ord. 444, 1995; prior code § 8-302)

Chapter 15.16

FLOOD DAMAGE PREVENTION

Sections:

- 15.16.011** Statutory authorization.
- 15.16.012** Findings of fact.
- 15.16.013** Statement of purpose.
- 15.16.014** Methods of reducing flood losses.
- 15.16.020** Definitions.
- 15.16.030** General provisions.
- 15.16.031** Lands to which this chapter applies.
- 15.16.032** Basis for establishing the areas of special flood hazard.
- 15.16.033** Establishment of development permit.
- 15.16.034** Compliance.
- 15.16.035** Abrogation and greater restrictions.
- 15.16.036** Interpretation.
- 15.16.037** Warning and disclaimer or liability.
- 15.16.038** Severability.
- 15.16.040** Administration.
- 15.16.041** Designation of the floodplain administrator.
- 15.16.042** Duties and responsibilities of the floodplain administrator.
- 15.16.043** Permit procedures.
- 15.16.044** Variance procedures.
- 15.16.045** Map revisions.
- 15.16.050** Provisions for flood hazard reduction.
- 15.16.051** General standards.
- 15.16.052** Specific standards.
- 15.16.053** Standards for subdivision proposals.
- 15.16.054** Floodways.
- 15.16.055** Penalties for noncompliance.
- 15.16.056** Certification.

15.16.011 Statutory authorization.

The Legislature of the State of South Dakota has in (statutes) SDCL 9-36 and 7-18-14 delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the city council of Custer City, South Dakota, does ordain as follows:

The city of Custer City elects to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended). The National Flood Insurance Program, established in the aforesaid act, provides that areas of the town having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. The National Flood Insurance Program was broadened and modified with the passage of the Flood Disaster Protection Act of 1973 and other legislative measures. It was further modified by the National Flood Insurance Reform Act of 1994. The National Flood Insurance Program is administered by the Federal Emergency Management Agency, a component of the U.S. Department of Homeland Security. (Ord. 710 (part), 2012)

15.16.012 Findings of fact.

A. The flood hazard areas of Highway 385 Tributary, French Creek and Laughing Water Creek are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.

B. These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, flood proofed or otherwise protected from flood damage. (Ord. 710 (part), 2012: Ord. 247 § 1.2, 1987)

15.16.013 Statement of purpose.

It is the purpose of this chapter to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- A. Protect human life and health;
- B. Minimize expenditure of public money for costly flood control projects;
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. Minimize prolonged business interruptions;
- E. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- F. Help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize future flood blight areas; and
- G. Insure that potential buyers are notified that property is in a flood area. (Ord. 710 (part), 2012: Ord. 247 § 1.3, 1987)

15.16.014 Methods of reducing flood losses.

In order to accomplish its purposes, this chapter uses the following methods:

- A. Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
- B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
- D. Control filling, grading, dredging and other development which may increase flood damage;
- E. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands. (Ord. 710 (part), 2012: Ord. 247 § 1.4, 1987)

15.16.020 Definitions.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted to give them the meaning they have in common usage and to give this chapter its most reasonable application.

öArea of future-conditions flood hazardö means the land area that would be inundated by the 1-percent-annual-chance (100-year) flood based on future-conditions hydrology.

öArea of shallow floodingö means a designated AO, AH, AR/AO, AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a one (1) percent or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

öArea of special flood-related erosion hazardö is the land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area; in preparation for publication of the FIRM, Zone E may be further refined.

öArea of special flood hazardö is the land in the flood plain within a community subject to a one (1) percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the flood insurance rate map, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, or V1-30, VE, or V. For purposes of these regulations, the term "special flood hazard area" is synonymous in meaning with the phrase "area of special flood hazard".

öBase floodö means the flood having a one percent chance of being equaled or exceeded in any given year.

öBase flood elevation (BFE)ö is the water surface elevation of the one (1) percent annual chance flood. The height in relation to mean sea level expected to be reached by the waters of the base flood at pertinent points in the floodplains of coastal and riverine areas.

öBasementö means any area of the building having its floor subgrade (below ground level) on all sides.

öBreakaway wallö means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

öBuilding.ö See östructureö.

öDevelopmentö means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

öErosionö means the process of the gradual wearing away of land masses. This peril is not per se covered under the Program.

öExisting constructionö means for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

öExisting manufactured home park or subdivisionö means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

öExisting structuresö See öexisting constructionö.

öExpansion to an existing manufactured home park or subdivisionö means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

öFloodö or öFloodingö means:

(a) A general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland or tidal waters.

(2) The unusual and rapid accumulation or runoff of surface waters from any source.

(3) Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (a)(2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

(b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated

force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a)(1) of this definition.

“Flood elevation determination” means a determination by the administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

“Flood Insurance Rate Map (FIRM)” means an official map of a community, on which the administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

“Flood insurance study” or “flood elevation study” means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

“Flood plain” or “flood-prone area” means any land area susceptible to being inundated by water from any source (see definition of “flooding”).

“Flood proofing” means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

“Floodway” - See “regulatory floodway”.

“Floodway encroachment lines” mean the lines marking the limits of floodways on federal, state and local flood plain maps.

“Freeboard” means a factor of safety usually expressed in feet above a flood level for purposes of flood plain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

“Functionally dependent use” means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

“Highest adjacent grade” means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

“Historic structure” means any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(c) Individually listed on a state inventory of historic places in states with historic reservation programs which have been approved by the Secretary of the Interior; or

(d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(1) By an approved state program as determined by the Secretary of the Interior or

(2) Directly by the Secretary of the Interior in states without approved programs.

“Letter of Map Amendment” is an official revision by letter to an effective NFIP map. A LOMA amends the currently effective FEMA map and establishes that a specific property is not located in a special flood hazard area.

“Letter of Map Revision Based on Fill” is an official revision by letter to an effective NFIP map. A LOMR-F states FEMA's determination concerning whether a structure or parcel has been elevated on fill above the base flood elevation and is, therefore, excluded from the special flood hazard area.

“Conditional Letter of Map Revision” is FEMA's formal review and comment as to whether a proposed project complies with the minimum NFIP floodplain management criteria.

15.16.020

“Levee” means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

“Levee system” means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

“Lowest floor” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Ch. 15.16.

“Manufactured home” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

“Manufactured home park or subdivision” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

“Map” means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by the agency.

“Mean sea level” means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

“New construction” means, for the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

“New manufactured home park or subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

“Recreational vehicle” means a vehicle which is:

- (a) Built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck; and
- (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

“Regulatory floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

“Special flood hazard area”: see "area of special flood hazard".

“Special hazard area” means an area having special flood, mudslide (i.e., mudflow), or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, A99, AH, VO, V1-30, VE, V, M, or E.

“Start of construction” (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other

improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

“Structure” means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. “Structure”, for insurance purposes, means:

- (1) A building with two or more outside rigid walls and a fully secured roof, that is affixed to a permanent site;
- (2) A manufactured home ("a manufactured home," also known as a mobile home, is a structure: built on a permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation); or
- (3) A travel trailer without wheels built on a chassis and affixed to a permanent foundation, that is regulated under the community's floodplain management and building ordinances or laws.

For the latter purpose, "structure" does not mean a recreational vehicle or a park trailer or other similar vehicle, except as described in paragraph (3) of this definition, or a gas or liquid storage tank.

“Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

“Substantial improvement” means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or
- (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

“Variance” means a grant of relief by a community from the terms of a flood plain management regulation.

“Violation” means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

“Water surface elevation” means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas. (Ord. 710 (part), 2012; Ord. 247 § 2.0, 1987)

15.16.030 General provisions.

15.16.031 Lands to which this chapter applies.

The chapter shall apply to all areas of special flood hazard within the jurisdiction of Custer City. (Ord. 710 (part), 2012; Ord. 247 § 3.1, 1987)

15.16.032

15.16.032 Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for Custer City," dated January 6, 2012, with accompanying Flood Insurance Rate Maps (FIRM), dated January 6, 2012 and any revisions thereto are hereby adopted by reference and declared to be a part of this chapter. (Ord. 710 (part), 2012: Ord. 498 (part), 1998: Ord. 247 § 3.2, 1987)

15.16.033 Establishment of development permit.

A development permit shall be required to ensure conformance with the provisions of this chapter. (Ord. 710 (part), 2012)

15.16.034 Compliance.

No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this chapter and other applicable regulations. (Ord. 710 (part), 2012: Ord. 247 § 3.3, 1987)

15.16.035 Abrogation and greater restrictions.

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Ord. 710 (part), 2012: Ord. 247 § 3.4, 1987)

15.16.036 Interpretation.

In the interpretation and application of this chapter, all provisions shall be:

1. considered as minimum requirements;
2. liberally construed in favor of the governing body; and
3. deemed neither to limit nor repeal any other powers granted under state statutes. (Ord. 710 (part), 2012: Ord. 247 § 3.5, 1987)

15.16.037 Warning and disclaimer or liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes.

This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder. (Ord. 710 (part), 2012: Ord. 247 § 3.6, 1987)

15.16.038 Severability.

If any section, provision, or portion of this chapter is adjudged unconstitutional or invalid by a court, the remainder of the chapter shall not be affected. (Ord. 710 (part), 2012)

15.16.040 Administration.

15.16.041 Designation of the floodplain administrator.

The community development director is hereby appointed the floodplain administrator to administer and implement the provisions of this chapter and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management. (Ord. 710 (part), 2012)

15.16.042 Duties and responsibilities of the floodplain administrator.

Duties and responsibilities of the floodplain administrator shall include, but not be limited to, the following:

1. Maintain and hold open for public inspection all records pertaining to the provisions of this chapter.
2. Review permit applications to determine whether a proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.
3. Review, approve or deny all applications for development permits required by adoption of this chapter.
4. Review permits for proposed development to assure that all necessary permits have been obtained from those federal, state or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
5. Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the floodplain administrator shall make the necessary interpretation.
6. Notify, in riverine situations, adjacent communities and the state coordinating agency which is South Dakota Game Fish and Parks, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
7. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
8. When base flood elevation data has not been provided in accordance with this chapter, the floodplain administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a federal, state or other source, in order to administer the provisions of this chapter.
9. When a regulatory floodway has not been designated, the floodplain administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
10. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the community first applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision). (Ord. 710 (part), 2012)

15.16.043 Permit procedures.

Application for a development permit shall be presented to the floodplain administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard.

Additionally, the following information is required:

1. Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
2. Elevation in relation to mean sea level to which any nonresidential structure shall be flood proofed;
3. A certificate from a registered professional engineer or architect that the nonresidential flood proofed structure shall meet the flood proofing criteria of 15.16.052;
4. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.
5. Maintain a record of all such information.

Approval or denial of a development permit by the floodplain administrator shall be based on all of the provisions of this chapter and the following relevant factors:

15.16.043

1. The danger to life and property due to flooding or erosion damage;
2. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
3. The danger that materials may be swept onto other lands to the injury of others;
4. The compatibility of the proposed use with existing and anticipated development;
5. The safety of access to the property in times of flood for ordinary and emergency vehicles;
6. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
7. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
8. The necessity to the facility of a waterfront location, where applicable;
9. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
10. The relationship of the proposed use to the comprehensive plan for that area. (Ord. 710 (part), 2012; Ord. 510, 1999; Ord. 508 (part), 1999; Ord. 247 § 4.1, 1987)

15.16.044 Variance procedures.

The appeal board for this chapter shall be the common council of the City of Custer City. Said appeal board shall hear and render judgment on requests for variances from the requirements of this chapter.

1. Any person or persons aggrieved by the decision of the appeal board may appeal such decision in the courts of competent jurisdiction.
2. The floodplain administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency and the State Office of Emergency Management upon issuing a variance.
3. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Section 15.16.043 have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
4. Upon consideration of the factors noted above and the intent of this chapter, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this chapter.
5. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
6. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
7. Prerequisites for granting variances:
 - a) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - b) Variances shall only be issued upon:
 - 1) showing a good and sufficient cause;
 - 2) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and
 - 3) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - c) Any application wherein a variance is granted, the applicant shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

8. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
- a) the criteria outlined in Article 4, Section D(1)-(9) are met, and
 - b) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety. (Ord. 710 (part), 2012; Ord. 247 § 4.4-2, 1987)

15.16.045 Map revisions.

A CLOMR is required only for those projects that will:

1. BFE/no floodway (demonstrate <1.0 ft increase)
 - a. A project on a stream or river that has been studied through detailed hydrologic and hydraulic analyses and for which base flood elevations (BFEs) have been specified, but a floodway has not been designated. If the developer/property owner/community proposes to allow development that would result in more than a 1.0 foot increase in the BFE, a CLOMR must first be obtained.
 - b. 44 CFR 60.3 (c)(10): Result in an increase in the base flood water-surface elevation (WSEL) of greater than 1.00 foot for streams with BFEs specified but no regulatory floodway designated.
2. BFE/floodway (no-rise)
 - a. The second situation requiring a CLOMR is for a project on a stream or river for which detailed analyses have been conducted and BFEs and a floodway have been designated. If the community proposes to allow development totally or partially within the floodway that would result in any (greater than 0.0 foot) increase in the BFE, a CLOMR must be obtained.
 - b. 44 CFR 60.3 (d)(3): Result in any base flood WSEL increase from proposed construction within a regulatory floodway.

LOMRs are required under 44 CFR 65.3. (Ord. 710 (part), 2012)

15.16.050 Provisions for flood hazard reduction.

15.16.051 General standards.

In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:

1. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
2. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
3. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
4. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
5. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
6. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,
7. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding. (Ord. 710 (part), 2012; Ord. 498 (part), 1998; Ord. 491 (part), 1998; Ord. 247 § 5.1, 1987)

15.16.052 Specific standards.

In all areas of special flood hazards where base flood elevation data has been provided the following provisions are required:

1. Residential construction - new construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to one foot above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the floodplain administrator that the standards of this chapter are satisfied.

2. Nonresidential construction - new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to one foot above the base flood level or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are flood proofed shall be maintained by the floodplain administrator.

3. Enclosures - new construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

b) The bottom of all openings shall be no higher than one foot above grade.

c) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

4. Manufactured homes -

a) Require that all manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

b) Require that manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

c) In A1-30, AH, and AE Zones, require that manufactured homes to be placed or substantially improved in an existing manufactured home park to be elevated so that the lowest floor is at or above the base flood elevation; OR the chassis is supported by reinforced piers no less than 36 inches in height above grade and securely anchored.

5. Recreational vehicles - Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either:

a) be on the site for fewer than 180 consecutive days,

b) be fully licensed and ready for highway use, or
 c) meet the permit requirements of Article IV, Section C, and the elevation and anchoring requirements for "manufactured homes" of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions. (Ord. 710 (part), 2012; Ord. 491 (part), 1998; Ord. 247 § 5.2, 1987)

15.16.053 Standards for subdivision proposals.

1. All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with the provisions of this chapter.
2. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet development permit requirements of this chapter.
3. Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser.
4. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
5. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage. (Ord. 710 (part), 2012)

15.16.054 Floodways.

Floodways located within areas of special flood hazard established in 15.16.030, are extremely hazardous areas due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

1. Designate a regulatory floodway which will not increase the base flood level more than one (1) foot.
2. Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
3. All new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article V in this chapter.
4. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first applies for a conditional FIRM and floodway revision through FEMA. (Ord. 710 (part), 2012; Ord. 491 (part), 1998; Ord. 247 § 5.3, 1987)

15.16.055 Penalties for noncompliance.

In accordance with Section 59.2(b) of CFR 44, Chapter 1, of the National Flood Insurance Program (NFIP) regulation, to qualify for the sale of federally-subsidized flood insurance, a community must adopt floodplain management regulations that meet or exceed the minimum standards of Section 60. "These regulations must include effective enforcement provisions." In accordance with Section 60.1(b) of CFR 44, Chapter 1, of the NFIP regulations, "These regulations must be legally-enforceable, applied uniformly throughout the community to all privately and publicly owned land within flood-prone (i.e. mudflow) or flood-related erosion areas, and the community must provide that the regulations take precedence over less restrictive conflicting local laws, ordinances or codes."

15.16.055

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violation of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a Class 2 misdemeanor for each violation. In addition, any person violating this chapter shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the City of Custer City from taking such other lawful action as is necessary to prevent or remedy any violation. (Ord. 710 (part), 2012)

15.16.056 Certification.

It is hereby found and declared by Custer City that severe flooding has occurred in the past within its jurisdiction and will certainly occur within the future; that flooding is likely to result in infliction of serious personal injury or death, and is likely to result in substantial injury or destruction of property within its jurisdiction; in order to effectively comply with minimum standards for coverage under the National Flood Insurance Program; and in order to effectively remedy the situation described herein, it is necessary that this chapter become effective immediately.

Therefore, an emergency is hereby declared to exist, and this chapter, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval. (Ord. 710 (part), 2012)