

**PENNINGTON COUNTY
BOARD OF COMMISSIONERS MINUTES
July 6, 2010**

A meeting of the Pennington County Board of Commissioners was held on Tuesday, July 6, 2010, in the Commissioners' meeting room of the Pennington County Courthouse. Chairperson Ethan Schmidt called the meeting to order at 9:00 a.m. with the following Commissioners present: De Glasgow, Gale Holbrook, Nancy Trautman and Brenda Young.

REVIEW AND APPROVE AGENDA: MOVED by Trautman and seconded by Young to approve the agenda with the following amendment: Remove Item 20, County Fairgrounds On-Sale License. Vote: Unanimous.

REVIEW MINUTES: MOVED by Young and seconded by Trautman to approve the minutes of the June 15, 2010, Board of Commissioners' meeting, noting a correction of Auditor Pearson's merit increase amount to \$7333. Vote: Unanimous. MOVED by Trautman and seconded by Young to approve the minutes of the special Board of Commissioners' meeting held on June 22, 2010. Vote: Unanimous.

EXECUTIVE SESSION PER SDCL 1-25-2: MOVED by Young and seconded by Trautman to convene in Executive Session. Vote: Unanimous. The Board remained in Executive Session from 9:10 a.m. until 9:37 a.m. MOVED by Young and seconded by Holbrook to adjourn from Executive Session. Vote: Unanimous.

ITEMS FROM AUDITOR

A. **EXIT INTERVIEW – DEPARTMENT OF LEGISLATIVE AUDIT – BRUCE HINTZ**

MOVED by Young and seconded by Trautman to authorize the Chairman's signature on documents for the Department of Legislative Audit. Vote: Unanimous.

MOVED by Trautman and seconded by Young that Human Resources Manager, Nick Stroot, develop a form to consistently document vacation and sick leave for all exempt County employees. Vote: Unanimous.

Holbrook left the meeting.

B. **RETAIL MALT BEVERAGE (ON-OFF SALE) LICENSE RENEWAL – CROOKED**

CREEK RESORT: MOVED by Glasgow and seconded by Trautman to approve the renewal of the Retail (on-off sale) Malt Beverage license and the Package (off-sale) Malt Beverage & SD Farm Wine license for Crooked Creek Resort, Crooked Creek Resort Inc. and further moved that the Environmental Planner from Planning & Zoning investigate the wastewater dumping complaints. Vote: Unanimous.

Holbrook returned to the meeting.

C. MALT BEVERAGE LICENSE RENEWAL – HART RANCH CAMPING RESORT: MOVED by Trautman and seconded by Holbrook to approve the renewal of the Retail (on-off sale) Malt Beverage license and the Package (off-sale) Malt Beverage license for Hart Ranch Camping Resort, Hart Ranch Camping Resort Club Inc. Vote: Unanimous.

ITEMS FROM SHERIFF

A. WSDJSC COMPACT AGREEMENTS: MOVED by Holbrook and seconded by Young to authorize the Chairman’s signature on the amended Western South Dakota Juvenile Detention Center Compact Agreement, the Operation and Maintenance of Juvenile Services Facility and Juvenile Transport System Agreement, and the Bylaws of the Western South Dakota Juvenile Services Center Compact. Vote: Unanimous.

SECOND READING OF ORDINANCE AMENDMENT / OA 10-02:

A. PUBLIC TESTIMONY: The following individuals testified for or against Ordinance Amendment / OA 10-02, Pennington County On-Site Wastewater Treatment System Ordinance: Scott Kenner, Dave Fisk, Glenn Lakner, Glorine Hunt, Karen Brummer, Gayle Jorgenson and David Bolda.

B. COMMISSION DISCUSSION AND ACTION: MOVED by Trautman and seconded by Young to amend Section 317A to read “The property owner shall submit an On-Site Wastewater Treatment System Construction permit Application which could include...” Vote: Unanimous.

MOVED by Holbrook and seconded by Young to approve the second reading of Ordinance Amendment / OA 10-02, the Pennington County On-Site Wastewater Treatment Systems Ordinance, dated June 22, 2010, including the earlier amendment to Section 317A to insert the word “could” between the words “which” and “includes” and strike the “s” from “includes”. Vote: Unanimous.

ORDINANCE #34-08

AN ORDINANCE AMENDMENT TO THE PENNINGTON COUNTY ZONING ORDINANCE.

BE IT HEREBY ORDAINED BY THE PENNINGTON COUNTY BOARD OF COMMISSIONERS THAT THE PENNINGTON COUNTY ORDINANCE #34 BE AMENDED AS FOLLOWS:

Pennington County On-Site Wastewater Treatment Systems Ordinance, Pennington County, South Dakota.

SECTION 100 - AUTHORIZATION AND JURISDICTION

SECTION 101 – PURPOSE

The Pennington County Board of Commissioners adopts this Ordinance stating the procedures, standards, and enforcement which shall be used by the Planning Department, under the authority of the Planning Director, for the design, installation, inspection, and permitting of on-site wastewater treatment systems on any commercial or residential premises to promote clean water, to protect public health and the environment, and to prevent a nuisance.

SECTION 102 – RULES ADOPTED

In addition to the requirements set forth in this Ordinance, all on-site wastewater treatment systems shall comply with the provisions of Chapter 74:53:01 (and any amendments thereto) of the Administrative Rules of South Dakota. Pennington County adopts and incorporates herein by this reference, the Administrative Rules of South Dakota, Chapter 74:53:01, as minimum standards relating to public health and environmental quality and said Administrative Rules shall supersede all local minimum standards previously enacted that are inconsistent with this Ordinance.

SECTION 103 – AUTHORITY

This Ordinance is enacted pursuant to the authority granted in Title 7 of the South Dakota Codified Laws and Chapter 74:53:01 of the Administrative Rules of South Dakota for the protection of public health and the safety and welfare of the citizens of Pennington County.

SECTION 104 – JURISDICTION

The Pennington County Board of Commissioners shall have the authority to delegate the administration and enforcement of this ordinance to the Planning Director as provided herein. Nothing in this Ordinance, however, shall be construed to restrict or abrogate the authority of any sanitary district or township in Pennington County to adopt an On-site Wastewater Treatment Systems Ordinance that meets or exceeds the standards set by this Ordinance.

SECTION 105 – PUBLIC NUISANCE

Any on-site wastewater treatment system that is found by the Planning Department to be malfunctioning or failing, as defined in this Ordinance and in accordance with South Dakota Codified Law, is presumed to create an imminent danger to the public health, safety and welfare and is hereby declared to be a nuisance subject to abatement and special assessment as allowed by law. Owners of a malfunctioning or failing on-site wastewater treatment system shall have 72 hours to notify the Planning Department.

SECTION 106 – ADMINISTRATION

This Ordinance shall apply to all on-site wastewater treatment systems in Pennington County outside the jurisdiction of a municipality. This Ordinance shall be enforceable within the extraterritorial jurisdiction of a municipality to the extent the municipality does not currently regulate such systems or ceases to regulate such systems within its extraterritorial jurisdiction. This Ordinance shall also be enforceable within the boundaries of a sanitary district or township

located within Pennington County, if the district or township does not regulate such systems or fails to regulate such systems in conformity with State of South Dakota or Pennington County laws and regulations.

SECTION 107 – DEFINITIONS

ABSORPTION BED – a subsurface absorption system which consists of excavations wider than three feet each, no more than 36 inches deep, containing a minimum depth of 12 inches of clean aggregate, together with a system of absorption lines, through which effluent may seep or leach into surrounding soils.

ABSORPTION FIELD – the soil or soils through which wastewater from an absorption system percolates.

ABSORPTION SYSTEM – a system which utilizes absorption lines (i.e. perforated pipe, gravelless pipe or chambers) in trenches or beds to distribute wastewater to adjacent soils in an absorption field.

ABSORPTION TRENCH – a long, narrow excavation made in soil for the placement of an absorption line.

ALTERNATIVE ON-SITE WASTEWATER TREATMENT SYSTEM - a system for treatment and disposal of domestic wastewater or wastes which consists of a building sewer, a septic tank or other sewage treatment or storage unit, and a disposal facility or method which is not a conventional system; but not including a surface discharge to the waters of the state.

ARSD – Administrative Rules of South Dakota.

BEDROCK - the rock, usually solid, that underlies soil or other unconsolidated, superficial material.

BEDROOM - any portion of a dwelling which is so designed as to furnish the minimum isolation necessary for use as a sleeping area. It may include, but is not limited to, a den with a closet or a study with a closet. Estimates of wastewater generated are based on two persons per bedroom.

BUILDING SEWER – a pipe that conveys wastewater from a building to the first on-site wastewater treatment system component or sewer main.

CERTIFICATION – program to substantiate the capabilities of a service provider by documentation of experience and learning.

CESSPOOL – an underground pit into which raw household wastewater is discharged and from which the liquid seeps into the surrounding soil; may or may not be partially lined; if septic tank effluent is discharged to such a component it is considered a seepage pit.

CHAMBERED TRENCH - a type of absorption system where the media consists of an open bottom, chamber structure of an approved material and design, which may be used as a substitute for the gravel media with a perforated distribution pipe.

CHANGE IN DESIGNATION – any alteration or modification in the specified zoning, change in use (i.e. Conditional Use Permit), or change to platting for a parcel or property.

CISTERN – a watertight underground receptacle of nontoxic material designed for the storage of potable water.

CONDOMINIUM - the ownership of a single unit in a multi-unit project together with an undivided interest in common, in the common areas and facilities of the property.

CURTAIN DRAIN - any groundwater interceptor or drainage system that is gravel backfilled and is intended to interrupt or divert the course of shallow groundwater or surface water away from the on-site wastewater treatment system. (also known as a “french drain”)

DENR – Department of Environment and Natural Resources (State of South Dakota).

DISPERSAL SYSTEM – a system for the distribution of effluent into the final receiving environment by such methods as transpiration, evapotranspiration, soil absorption or other DENR-approved dispersal methods.

DISTRIBUTION BOX - a watertight structure which receives septic tank effluent and distributes it concurrently, in essentially equal portions, into two or more distribution pipes leading to an absorption system.

DISTRIBUTION PIPE - approved perforated pipe used in the dispersion of septic tank effluent.

DOMESTIC WASTEWATER - effluent from a septic tank or other treatment device originating from plumbing fixtures and appliances such as sanitary (toilets), bath, laundry, dish washing and garbage disposals.

DROP BOX - a watertight structure which receives septic tank effluent and distributes it into one or more distribution pipes and into an overflow leading to another drop box and absorption system located at a lower elevation.

DWELLING - any structure, building, or any portion thereof which is used, intended, or designed to be occupied for human living purposes including, but not limited to, houses, mobile homes, hotels, motels, apartments, business, and industrial establishments.

EFFLUENT – the partially or completely treated liquid waste discharge containing fecal and urinary waste from a wastewater treatment system.

EFFLUENT LIFT PUMP - a pump used to lift septic tank effluent to a disposal area at a higher elevation than the septic tank.

EJECTOR PUMP - a device to elevate or pump untreated sewage to a septic tank, public sewer, or other means of disposal.

EVAPOTRANSPIRATION SYSTEM – an imperviously lined dispersal system that uses a process of evaporation and plant transpiration to withdraw water from the soil.

EXPERIMENTAL ON-SITE WASTEWATER TREATMENT SYSTEM - an on-site wastewater treatment and/or disposal system which is still in experimental use and requires further testing in order to provide sufficient information to determine its acceptability.

GRAYWATER – the wastewater generated by water-using fixtures and appliances which do not discharge garbage or urinary or fecal wastes.

GRAYWATER SYSTEM – a wastewater system designed to recycle or treat wastes from sinks, tubs, showers, washers, or other devices which do not discharge garbage or urinary or fecal wastes. See “graywater” definition.

GREASE INTERCEPTORS – an outdoor unit similar to a septic tank, used to remove, by flotation, excessive amounts of grease and oils which may interfere with subsequent treatment of the waste (also known as “grease traps”).

GROUNDWATER - that portion of subsurface water that is in the zone of soil or rock saturation.

GROUNDWATER TABLE - the surface of a body of unconfined groundwater in which the pressure is equal to that of the atmosphere.

GROUNDWATER TABLE, PERCHED - unconfined groundwater separated from an underlying body of groundwater by an unsaturated zone. Its water table is a perched water table. It is underlain by a restrictive strata or impervious layer. Perched groundwater may be either permanent, where recharge is frequent enough to maintain a saturated zone above the perching bed, or temporary, where intermittent recharge is not great or frequent enough to prevent the perched water from disappearing from time to time as a result of drainage over the edge of or through the perching bed.

INSTALLER – service provider who is certified to construct an on-site wastewater treatment system.

INVERT - the lowest portion of the internal cross section of a pipe or fitting.

LIQUID WASTE OPERATION - any business activity or solicitation by which liquid wastes are collected, transported, stored, or disposed of by a collection vehicle. This shall include, but not be limited to, the cleaning out of septic tanks, sewage holding tanks, chemical toilets, and vault privies.

LIQUID WASTE PUMPER – service provider who removes the contents of septic tanks, pump tanks, holding tanks, and advanced treatment units and disposes of the waste according to 40 C.F.R. part 503 (October 25, 1995).

LOT - a portion of a subdivision, or any other parcel of land intended as a unit for transfer of ownership or for development or both and shall not include any part of the right-of-way of a street or road.

MAJOR COMPONENT REPAIR OR REPLACEMENT – repairs to or replacement of an on-site wastewater treatment system major component include the following:

- A. Septic/holding tank removal/addition.
- B. Addition, expansion or replacement of drainfield area.
- C. Change in type of system (i.e. trench system to mound system).
- D. Movement of system to a replacement area.
- E. Conversion to/from an alternative or experimental system.

MALFUNCTIONING OR FAILING SYSTEM - an on-site wastewater treatment system which is not functioning in compliance with the requirements of this Ordinance includes the following:

- A. Absorption systems which seep or flow to the surface of the ground or into waters of the state.
- B. Systems which have overflow from the absorption system.
- C. Systems which, due to failure to operate in accordance with their designed operation, cause backflow into any portion of a building plumbing system.
- D. Septic tanks or holding tanks which leak.
- E. Absorption systems installed in bedrock or in the groundwater table.
- F. Steel septic tanks or steel holding tanks.
- G. Any other on-site wastewater treatment system not defined as a conventional or alternative system. (i.e. cesspools, seepage pits, and pit privies).

MAXIMUM GROUNDWATER TABLE - the highest elevation that the top of the “groundwater table” or “groundwater table, perched” is expected to reach for any reason over the full operating life of the on-site wastewater treatment system at that site as determined by the profile hole evaluation.

MOUND SYSTEM - an alternative on-site wastewater treatment system where the bottom of the absorption system is placed above the elevation of the existing site grade, and is contained in a mounded fill body above that grade.

MULTIPLE-UNIT DWELLING – includes condominiums, townhomes, apartments and assisted living/nursing homes.

NON-DOMESTIC WASTEWATER - water or liquid-carried waste, including but not limited to, water or wastes from an industrial process resulting from industry, manufacture, trade,

automotive repair, vehicle wash, business or medical, activity; this wastewater may contain toxic or hazardous constituents.

ON-SITE WASTEWATER TREATMENT SYSTEM – a wastewater treatment system relying on natural processes and/or mechanical components to collect and treat sewage from one or more dwellings, buildings or structures and disperse the resulting effluent on the property owned by an individual or entity.

OVERLAY DISTRICT - a district that is superimposed over one or more zoning districts or parts of districts and imposes specified requirements that are in addition to those otherwise applicable for the underlying zone.

OWNER – a person or persons who are the owner of record of the land on which an on-site wastewater treatment system is to be or has been designed, constructed, installed, altered, extended, or operated.

PENNINGTON COUNTY - any personnel, including, but not limited to: Pennington County Planning and Zoning Department personnel, the Pennington County Planning Commissioners and/or the Pennington County Board of Commissioners.

PERCOLATION RATE - the time expressed in minutes per inch required for water to seep into saturated soil at a constant rate during a percolation test.

PERCOLATION TEST – a soil test at the depth of a proposed absorption system to determine the water absorption capability of the soil, the results of which are normally expressed as the rate at which one inch of water is absorbed over an interval of time.

PERSON - an individual, trust, firm, estate, company, corporation, partnership, association, state, state or federal agency or entity, municipality, commission, or political subdivision of a state.

PLANNING DIRECTOR – Any person appointed by the Pennington County Commission to supervise the Pennington County Planning Department.

POLLUTION - any man-made or man-induced alteration of the chemical, physical, biological, or radiological integrity of any waters of the state, unless the alteration is necessary for public health and safety.

POTABLE - water of sufficient quality to serve as drinking water; presumed to meet safe drinking water standards.

PUBLIC HEALTH HAZARD - for the purpose of this Ordinance, a condition whereby there are sufficient types and amounts of biological, chemical, or physical agents relating to water or sewage which are likely to cause human illness, disorders or disability. These include, but are not limited to, pathogenic viruses and bacteria, parasites, toxic chemicals and radioactive isotopes. A malfunctioning or failing on-site wastewater treatment system constitutes a public health hazard.

REPAIR – action of fixing or replacing substandard or damaged components; repairs can be categorized as required repairs, recommended repairs, and upgrades.

REPLACEMENT AREA – sufficient land with suitable soil, excluding streets, roads, and permanent structures, which complies with the setback requirements of these rules, and is intended for the 100 percent replacement of absorption systems.

SEEPAGE PIT – an excavation (deeper than it is wide) which receives septic tank effluent and from which the effluent seeps into the surrounding soil through the bottom and openings in the side of the pit; emphasis is on disposal rather than treatment.

SEPTAGE – the liquid and solid material pumped from a septic tank, cesspool, or similar domestic sewage treatment system, or a holding tank when the system is cleaned or maintained.

SEPTIC TANK – water-tight, covered receptacle for treatment of sewage; receives the discharge of sewage from a building, separates settleable and floating solids from the liquid, digests organic matter by anaerobic bacterial action, stores digested solids through a period of detention, allows clarified liquids to discharge for additional treatment and final dispersal, and attenuates flows.

SERVICE PROVIDER – any person who performs work in relation to on-site wastewater treatment systems; this includes installers, O&M service providers, and liquid waste pumpers.

SERVICE PROVIDER, O&M – a professional who performs operation and maintenance, typically on alternative, experimental or unconventional, on-site wastewater treatment systems.

SEWAGE – untreated wastes consisting of blackwater and graywater from toilets, baths, sinks, laundries, and other plumbing fixtures in places of human habitation, employment or recreation.

SEWAGE HOLDING TANK – a watertight receptacle which receives water-carried wastes from the discharge of a drainage system and retains such wastes until removal and subsequent disposal at an approved site or treatment facility.

SINGLE-FAMILY DWELLING – a building designed to be used as a home by the owner or lessee of such building, and shall be the only dwelling located on a lot with the usual accessory buildings.

SLUDGE – accumulated solids and associated entrained water within a pretreatment component, generated during the coagulation, clarification or biological, physical, or chemical treatment of wastewater.

SOIL EXPLORATION PIT – an open pit dug to permit examination of the soil to evaluate its suitability for absorption systems.

SOIL SCIENTIST – an individual qualified to conduct soil surveys. A soil scientist is qualified if:

- A. He or she is certified as a soils scientist/classifier by the ARCPACS (A Federation of Certifying Boards in Agronomy, Biology, Earth and Environmental Sciences); or
- B. He or she has a bachelor's, master's or doctoral degree in soil science.

STATIC WATER LEVEL - Elevation or level of the water table in a well when the pump is not operating or the level or elevation to which water would rise in a tube connected to an artesian aquifer or basin in a conduit under pressure. (USEPA)

VAULT PRIVY – an enclosed non-portable toilet into which non-water-carried human wastes are deposited to a subsurface storage chamber that is water tight.

WASTE OR POLLUTANT – dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water.

WASTEWATER – clear water, stormwater, industrial waste, sewage (domestic or nondomestic), or any combination thereof, carried by water.

WATER SUPPLY – a system of pipes and other structures through which water is obtained and distributed for consumption from springs, wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, storage tanks, cisterns, and related appurtenances.

WATERS OF THE STATE – all waters within the jurisdiction of this state, including streams, lakes, ponds, impounding reservoirs, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, situated wholly or partly within or bordering on the state, but not waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the CWA other than cooling ponds as defined in 40 C.F.R. § 423.11(m) (July 1, 1991).

SECTION 200 – OPERATING PERMIT

SECTION 201 – Administrative Requirements

Inspections of existing on-site wastewater treatment systems are required by Pennington County to protect and enhance the quality of the surface water and groundwater resources and to avert adverse impacts upon public health and the environment. All on-site wastewater treatment systems within the jurisdiction of Pennington County shall obtain an Operating Permit.

SECTION 202 – Inspection of Existing On-site Wastewater Treatment Systems

ON-SITE WASTEWATER TREATMENT SYSTEM OPERATING PERMIT APPLICATION PROCEDURE AND REQUIREMENTS

- A. If an Operating Permit has never been issued to an owner of an on-site wastewater treatment system, Pennington County will, by mail, notify the owner of operating permit requirements, including inspections, schedules and fees. The initial implementation of the Operating Permit program will include prioritization based upon the proximity of an on-site wastewater treatment system to surface water and/or areas where aquifers are recharged. Full implementation of the program may take up to six (6) years.
- B. All owners of an on-site wastewater treatment system shall obtain an On-site Wastewater Treatment System Operating Permit for the operation and maintenance of such a system when notified by Pennington County.
- C. An administrative fee for the On-site Wastewater Treatment System Operating Permit shall be required for operation and maintenance of any on-site wastewater treatment system in Pennington County.

PROCEDURE FOR OBTAINING AN OPERATING PERMIT:

- 1. Pennington County will send permit renewal letters at least 60 days prior to the expiration date of an On-site Wastewater Treatment System Operating Permit.
 - 2. The septic tank or holding tank shall be pumped. The owner of the on-site wastewater treatment system will be responsible for the scheduling of the pumping with a septic liquid waste pumper of his/her choice. The on-site wastewater treatment system shall be pumped no later than 30 days after actual receipt of the initial or permit renewal notification letter from Pennington County.
 - 3. An Observation Form will be filled out by a septic liquid waste pumper and submitted to Pennington County for review. The Observation Form shall include:
 - a. The name of the owner of the on-site wastewater treatment system.
 - b. The physical address of the property on which the on-site wastewater treatment system is located.
 - c. The property identification number (tax ID) and legal description of the property (to be filled out by Pennington County Planning personnel).
 - d. Date and time of inspection and person(s) who performed inspection.
 - e. Basic site evaluation.
 - f. Size and type of septic or holding tank.
 - g. A description of the current operation status of the system.
 - h. Any other pertinent observations made by the septic liquid waste pumper.
 - i. GPS coordinates of septic tank, if possible.
 - 4. Pennington County will review the Observation Form and prepare and complete an Inspection Summary Form, if necessary, to determine compliance with this Ordinance.
- D. If Pennington County determines that the on-site wastewater treatment system is in violation of this Ordinance, notification will be sent to the property owner within 30 days

following pumping of the septic tank. Requirements for repair, alteration or replacement will be included in the notification.

1. If repair, replacement, or alteration of any major component(s) is required, an on-site wastewater treatment system Construction Permit Application shall be submitted including the appropriate fees as determined in Section 318.
 2. Pennington County shall inspect the system for compliance after the repair, replacement, or alteration of any major component(s) of the system.
 3. Fees are required for additional inspections, if the system is found to violate this Ordinance.
- E. If Pennington County finds that the on-site wastewater treatment system is in compliance with this Ordinance, the On-site Wastewater Treatment System Compliance Fee, will be collected and an Operating Permit will be issued to the owner of the on-site wastewater treatment system.
- F. The On-site Wastewater Treatment System Operating Permit shall expire six (6) years after the issue date.
- G. Pennington County may require a different permit frequency for which an on-site wastewater treatment system needs an On-site Wastewater Treatment Systems Operating Permit:
1. For non-residential structures.
 2. For unique, unusual or alternative on-site wastewater treatment systems.
 3. When the on-site wastewater treatment system is determined by Pennington County to be inadequate for the current use or size of the structure it serves.
 4. When a valid On-site Wastewater Treatment Systems Operating Permit has not been issued prior to any sale, transfer or change in designation of the property.
 5. When the property is located in close proximity to surface water or within the aquifer recharge area or overlay district.
 6. For any other reason that Pennington County considers necessary to protect public health and the environment or prevent a nuisance.
 7. Commercial on-site wastewater treatment systems.
- H. Pennington County may take samples including, but not limited to, soils, surface water and wells on or near the on-site wastewater treatment system to ensure proper function of the system. The results of such testing will be available to the property owner.
- I. Pennington County will notify the homeowner 60 days prior to expiration of the Operating Permit.

SECTION 203 - LIMITATIONS ON SALE, TRANSFER OR CHANGE IN DESIGNATION

- A. Prior to any sale, transfer or change in the designation of a property, all of the following shall occur:
1. Pennington County will have reviewed the request to determine if the property

has a current On-site Wastewater Treatment Systems Operating Permit or requires an On-site Wastewater Treatment Systems Operating Permit. A current On-site Wastewater Treatment Systems Operating Permit is transferable up to the last year of the existing term of the permit.

2. Pennington County will have determined that the on-site wastewater treatment system on the parcel or lot is not creating a health hazard, a nuisance and is protective of the environment, and issues the initial On-site Wastewater Treatment Systems Operating Permit.
 3. Any necessary repairs, alterations or system upgrades will have been completed and in compliance with this Ordinance.
 4. Any property owner or person purchasing a property containing an on-site wastewater treatment system may request to implement the process for issuance of a new On-site Wastewater Treatment Systems Operating Permit.
- B. It is the responsibility of the property owner or his/her agent to notify Pennington County prior to the sale or transfer of property.
- C. The owner of a property containing an on-site wastewater treatment system shall provide evidence to a prospective buyer or transferee, prior to closure, of compliance with this Ordinance.

SECTION 204 - CHANGE IN STRUCTURE SERVED BY AN ON-SITE WASTEWATER TREATMENT SYSTEM

When a structure on a property is altered or replaced and is currently served by an on-site wastewater treatment system, Pennington County shall require the owner of the property to obtain an On-site Wastewater Treatment Systems Operating Permit prior to the issuance of a Building Permit, if the newly constructed or altered structure's number of bedrooms increases from the original structure for which the existing on-site wastewater treatment system served, Pennington County shall require:

- A. The on-site wastewater treatment system to be sized correctly for the newly constructed or altered structure; and,
- B. An On-site Wastewater Construction Permit.

SECTION 205 – ON-SITE WASTEWATER TREATMENT SYSTEM COMPLIANCE FEE

Any person who owns property on which an on-site wastewater treatment system is located shall pay an administrative fee of \$20.00 each time an Operating Permit for the system is issued or renewed. The revenue from these fees will support administration of Pennington County's Clean Water programs.

SECTION 300 – INSTALLATION, ALTERATION AND REPAIR

SECTION 301 – LEGAL NONCONFORMING ON-SITE WASTEWATER TREATMENT SYSTEM

Any on-site wastewater treatment system existing at the time of adoption of this Ordinance which is not in violation of any Federal, State, or Local Law, rule or regulation, may be continued in use until such time the system is found by Pennington County to be malfunctioning or failing, at which point the entire system, or any portion thereof which is deemed to have malfunctioned or failed, shall be brought into full compliance with the provisions of this Ordinance.

SECTION 302 – ADMINISTRATIVE REQUIREMENTS

ON-SITE WASTEWATER TREATMENT SYSTEM REQUIRED – The drainage system of each dwelling, building or premises covered herein shall receive all wastewater (including, but not limited to, bathroom, kitchen, and laundry wastes) and shall have a connection to a public sewer except when such sewer is not available or practicable for use, in which case connection shall be made to an on-site wastewater treatment system found to be adequate and constructed, installed and maintained in accordance with the requirements of this Ordinance.

REPAIR OF A FAILING SYSTEM – Whenever an on-site wastewater treatment system is found by Pennington County to be malfunctioning or failing, or to cause a nuisance, the owner shall take the necessary action to cause the condition to be corrected or eliminated or otherwise to come into compliance. Corrective action shall be completed by the owner of a malfunctioning or failing system in accordance with Section 501.

SECTION 303 – GENERAL REQUIREMENTS

UNITS REQUIRED IN AN ON-SITE WASTEWATER TREATMENT SYSTEM – The on-site wastewater treatment system shall consist of the following components:

- A. A building sewer.
- B. A septic tank.
- C. An absorption system. This may be a standard trench, a chambered trench, an absorption bed, or alternative or experimental systems as specified in this Ordinance, depending on location, topography, soil conditions and groundwater table.
- D. A holding tank, if a conventional, alternative, or experimental system cannot be used.

MULTIPLE SINGLE-FAMILY DWELLING UNITS – multiple single-family dwelling units under individual ownership shall not be served by a single on-site wastewater treatment system except where that system is under the sponsorship of a management district or a body politic or in extenuating circumstances, when individual systems are not feasible. Plans and specifications for such systems shall be submitted to and approved by DENR prior to submission to Pennington County.

SECTION 304 – DESIGN REQUIREMENTS

SITE LOCATION AND INSTALLATION

- A. On-site wastewater treatment systems are not suitable for all areas and situations. Location and installation of each system, or other approved means of treatment, shall be such that with reasonable maintenance, it will function in a sanitary manner and will not create a nuisance, public health hazard, or endanger the quality of any waters of the state. Systems shall be located on the same lot as the building served whenever possible.
- B. In determining a suitable location for the system, due consideration shall be given to such factors as: size and shape of the lot; slope of natural and finished grade; location of existing and future water supplies; depth to groundwater and bedrock; soil characteristics and depth; potential flooding or stormwater catchments; possible expansion of the system, and future connection to a public sewer system.
- C. The depth of a well is determined by the static water level in the well for setback requirements.

REPLACEMENT AREA FOR ABSORPTION SYSTEM - Adequate and suitable land shall be reserved and kept free of permanent structures, traffic, or adverse soil modification for 100 percent replacement of each absorption system.

TRACER WIRE REQUIRED – In order to assist in the location of on-site wastewater treatment system components located below ground, all new or replacement absorption systems shall have tracer wire installed. All tracer wire shall be No. 12 solid single strand type TW or THHN, or equivalent. The tracer wire shall be accessible at the tank cleanout and shall extend along the building sewer from the house to the tank, around the septic tank access hole, and from the tank through all system trenches or around the perimeter of any bed, mound or evapotranspiration system. To prevent corrosion, all buried ends of the tracer wire and all wire splices shall be sealed with an approved direct bury splice kit or gel-type connector. All tracer wire installation shall be inspected during the final inspection by Pennington County and prior to back filling. The installer is responsible for ensuring that the tracer wire has conductivity.

SECTION 305 – HOUSING SUBDIVISIONS AND PLANNED UNIT DEVELOPMENTS

REVIEW CRITERIA FOR ESTABLISHING ON-SITE WASTEWATER TREATMENT SYSTEM FEASIBILITY OF PROPOSED HOUSING SUBDIVISIONS AND OTHER SIMILAR DEVELOPMENTS - Pennington County will review plans for proposed subdivisions and other similar developments, that create 15 or more lots, for on-site wastewater treatment system feasibility, prepared at the owner's expense. A plan of the subdivision shall be submitted to Pennington County for review and shall be drawn to such scale as needed to show essential features. On-site Wastewater Treatment systems shall meet the requirements of Pennington County Subdivision Regulations Section 500.10 and this Ordinance.

SECTION 306 – VARIANCES

Variances to ARSD § 74:53:01 must be approved through DENR prior to submission of an On-site Wastewater Treatment System Construction Permit Application to Pennington County.

SECTION 307 – EXCEPTIONS

REQUIREMENTS FOR AN EXCEPTION TO THIS ORDINANCE – The purpose of an exception is to modify specific requirements of this Ordinance in the case of exceptionally irregular conditions whereby such application would result in practical difficulty or unnecessary hardship which would deprive an owner of the reasonable use of their property. Justification for the need of the exception must be provided and is such that they will not cause a violation of any existing water quality standard, cause a health hazard, or create a nuisance.

APPLICATION REQUIREMENTS FOR EXCEPTIONS

- A. Information demonstrating that connection to a public or community-based sewerage system is not available, there is no other option for sewage treatment, and site conditions prevent construction or use of an on-site wastewater treatment system that is in compliance with this Ordinance.
- B. A detailed description of the proposed system, including engineering and/or reliability information, if necessary, and information about its proposed location and proposed replacement area.
- C. An operation, maintenance and troubleshooting plan to keep the installed system operating as described in the application.
- D. A contingency plan describing how a system that cannot meet the requirements of this Ordinance will be replaced.
- E. Approval letter from DENR, if necessary.
- F. Final approval from Pennington County.

SECTION 308 – SOIL AND GROUNDWATER REQUIREMENTS

GENERAL REQUIREMENTS - A suitable soil for absorption systems shall meet the following criteria:

- A. Have the capacity to adequately disperse the designed effluent loading as determined by field percolation rates and/or visual inspection of soil exploration, and;
- B. Does not exhibit inhibiting swelling or collapsing characteristics, and;
- C. Does not visually exhibit a jointed or fractured pattern of underlying bedrock, and;
- D. Meets the requirements of ARSD § 74:53:01:15.

GROUNDWATER REQUIREMENTS

- A. The seasonal high groundwater table shall be determined by direct visual observation of the maximum groundwater table in a soil exploration pit. The observation of soil in a soil exploration pit may show evidence of crystals of salt left by the seasonal high groundwater table, or chemically reduced iron in the soil, reflected by a mottled coloring if water is not visible in the soil exploration pit.
- B. A curtain drain or other effective groundwater interceptor may be required to be installed for an absorption system as a condition for its approval. Pennington County may require

that the effectiveness of such devices in lowering the groundwater table be demonstrated, for a period of at least one year, during the season of maximum groundwater table elevation.

SOIL EXPLORATION REQUIREMENTS

- A. Pennington County will perform a preliminary evaluation of the site. A Preliminary Evaluation form is required for each new soil exploration pit. The form will include:
 - 1. The soil exploration log, including a statement of soil explorations to a depth of eight feet or to a depth of at least four feet below the bottom of the proposed absorption system;
 - 2. A statement of the present and anticipated seasonal high groundwater table, and,
 - 3. A field/site evaluation.
- B. Suitable soil exploration pits, of sufficient size to permit visual inspection by Pennington County (at least a two foot by five foot hole), and to a minimum depth of eight feet, or at least 48 inches below the bottom of proposed on-site wastewater treatment systems, shall be dug near each absorption system site to determine the groundwater table and subsurface soil and bedrock conditions. A log of the soil and bedrock formations encountered must be recorded describing the texture, structure, and depth of each soil type, the depth of the groundwater table encountered, and indications of the seasonal high elevation of the groundwater table. Soil logs should be prepared in accordance with the United States Department of Agriculture Soil Classification System.
- C. The preliminary evaluation is valid for two years from the evaluation date.
- D. Pennington County may impose stricter requirements as to the depth of absorption system excavation in order to meet the four foot separation requirements set forth in SDAR § 74:53:01:15.
- E. The Pennington County Planning Department may require that soil evaluations be performed by a licensed or certified soil scientist or a representative from DENR.

PERCOLATION TEST REQUIREMENTS

At least three stabilized percolation tests for the design flow less than 2,000 gallons per day, or six tests, if the design flow is more than 2,000 gallons per day but less than 5,000 gallons per day, shall be performed on the site of each absorption system to determine minimum required absorption area. More tests may be required where soil structure varies, where limiting geologic conditions are encountered, or where the proposed property improvements will require large treatment systems.

- A. When percolation tests are made, such tests shall be made at points and elevations selected as typical of the area in which the absorption system will be located. Consideration should be given to the finished grades of building sites so that test results

will represent the percolation rate of the soil in which absorption systems will be constructed. After the suitability of any area to be used for on-site wastewater treatment systems has been evaluated and approved for construction, no grade changes shall be made to this area unless Pennington County is notified and a reevaluation of the area's suitability is made prior to the initiation of construction.

- B. Test results shall be submitted on the On-site Wastewater Treatment System Construction Permit Application. The permit application shall contain the following:
 - 1. The name and signature of the individual conducting the tests;
 - 2. The date of the tests;
 - 3. The location of the property;
 - 4. The depth and rate of each test in minutes per inch;
 - 5. All other factors affecting percolation test results;
 - 6. Calculated average percolation rate.

- C. The percolation test results are valid for two years from the date the tests were performed.

SECTION 309 – BUILDING SEWER AND DISTRIBUTION PIPE

GENERAL REQUIREMENTS - Building sewer and distribution pipe materials shall be composed of PVC and shall conform to the applicable standards as outlined in Tables in the section, and shall comply with the following:

- A. Pipe, pipe fittings, and similar materials comprising building sewers are listed by material and applicable standard (See Table 1).

Table 1. Standards for Distribution and Building Sewer Pipe(a)(b)

MATERIALS	MINIMUM STANDARDS
Polyvinyl Chloride (PVC)	
PVC - Schedule 40 (foam or cell core is prohibited)	ASTM D 1785-06(c)
SDR-35 PVC (Gravity)	ASTM D 3034-08 (c)
PVC (Pressure)	ASTM D 2241-05 (c)

- B. The following is a list of solid-wall perforated pipe, approved as distribution pipe in absorption systems. Solid-wall pipe must be perforated in accordance with this Ordinance, and all burrs must be removed from the inside of the pipe. The pipe is listed by material and applicable standard (See Table 2).

Table 2. Standards for Perforated Pipe(a)

MATERIALS	MINIMUM STANDARDS
SDR-35 PVC	ASTM D 3034-08 (c)

- (a) Each length of building sewer and absorption system pipe shall be stamped or marked as required by the International Plumbing Code.
 - (b) Building sewers include (1) the pipe installed between the building and the septic tank and (2) between the septic tank and the distribution box (or absorption system). The installation of building sewers shall comply with the International Plumbing Code.
 - (c) American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103.
- C. Where two different sizes or types of sewer pipes are connected, a proper type of fitting or conversion adapter shall be used.
 - D. They shall have a minimum inside diameter of four inches. They shall have watertight, root-proof joints and shall not receive any groundwater or surface runoff. They shall be laid in straight alignment and on a firm foundation of undisturbed earth.
 - E. Building sewers shall be laid on a uniform minimum slope of not less than ¼ inch per foot (2.08 percent slope).
 - F. The lines shall have cleanouts every 100 feet and at all changes in direction or grade.

SECTION 310 – SEPTIC TANKS

SEPTIC TANK DESIGN AND CONSTRUCTION REQUIREMENTS

- A. The pipe entering and exiting the septic tank shall be at least six feet in length of Schedule 40 (see Table 1) and unperforated until the first tee, distribution box, or drop box before the absorption field is encountered.
- B. Some septic tanks may have an effluent filter installed at the outlet of the tank. The filter shall prevent the passage of solid particles larger than a nominal ⅛-inch diameter sphere. The filter should be easily removed for routine servicing through watertight access from the ground surface.

SEPTIC TANK SIZING (MINIMUM CAPACITIES) -

The minimum liquid capacity of septic tanks serving single-family dwellings shall be based on the number of bedrooms in all structures utilizing an on-site wastewater treatment system:

Table 3. Minimum Capacities for Septic Tanks

Number of Bedrooms(a)	Minimum Liquid Capacity (Gallons)(b)(c)
1, 2, 3, or 4 (with or without garbage disposal)	1,500
5 (without garbage disposal)	1,500
For each additional bedroom, add	250

- (a) Based on the number of bedrooms in use or that can be reasonably anticipated in the dwelling or structure(s) served, including the unfinished space available for conversion as additional bedrooms.
- (b) The liquid capacity is calculated on the depth from the invert of the outlet pipe to the inside bottom of the tank.
- (c) Table 3 provides for the normal household appliances, including automatic sequence washers and dishwashers. Add 20 percent to the total capacity for use of a garbage disposal for a dwelling or structure(s) having five or more bedrooms.

SEPTIC TANK INSTALLATION REQUIREMENTS -

- A. All tanks shall be located in an area which is accessible by a liquid waste pumper truck for the pumping of their contents. There shall be no structure(s) of any kind covering any of the tanks or impeding access to the tank(s) or require the truck to drive over the absorption system.
- B. Flotation collars, one-piece tanks, or shallow belly tanks shall be used in areas with high groundwater potential.
- C. Septic tanks installed in sensitive areas, such as an aquifer recharge area, may be required to be double-sealed if constructed of two separate pieces.
- D. The tank inlet and outlet devices shall consist of baffles or sanitary tees at least four inches in diameter and constructed of PVC.

SECTION 311 – DISCHARGE OF SEPTIC TANK EFFLUENT TO ABSORPTION SYSTEMS

GENERAL REQUIREMENTS – Septic tank effluent shall be connected to the absorption system through watertight pipe and fittings. Tees, wyes, ells, or other distributing devices may be used as needed.

TEES AND WYES – Tees and wyes shall be installed level and not in line with any distribution pipe to permit equal flow to all branches of the fitting.

SECTION 312 – ABSORPTION SYSTEMS

GENERAL REQUIREMENTS - Absorption systems shall be designed and installed at the shallowest practicable depth to maximize elements critical to effective treatment of effluent in the soil. The maximum depth of the absorption system shall be 36 inches unless an exception is granted by the Pennington County Planning Department.

DETERMINING REQUIRED ABSORPTION SYSTEM AREA - Minimum absorption area is equal to the total number of bedrooms times the required absorption area within the applicable percolation rate category.

- A. In every case, sufficient absorption area shall be provided for at least three (3) bedrooms.

- B. Any unfinished space available for conversion as additional bedrooms (Table 4) shall be determined by:

Table 4. Determination of Additional Absorption System Area Based Upon Unfinished Space

Square Footage of Unfinished Space	Bedrooms
0-1000	Add 1 additional
1001-2000	Add 2 additional
2001+	Add 3 additional

GRAVELLESS PIPE ABSORPTION TRENCHES AND GRAVELLESS CHAMBER TRENCHES

- A. All gravelless pipe and chambers shall be approved by DENR.
- B. Gravelless systems (pipe and chambers) shall be installed according to specified manufacturer’s instructions.

ABSORPTION BEDS

- A. The gravel above the distribution line shall be covered with geotextile fabric and then a top layer of 12 inches of soil over the entire bed.
- B. Straw and paper shall not be permitted.

SECTION 313 – ALTERNATIVE ON-SITE WASTEWATER TREATMENT SYSTEMS

GENERAL REQUIREMENTS

- A. The certified installer of any alternative on-site wastewater treatment system must submit the following to DENR prior to submission to Pennington County:
 - 1. Detailed basis of design of all components.
 - 2. Site plan.
 - 3. Operation and maintenance instructions for the system which describe the activities necessary to properly operate, maintain and troubleshoot the system.
- B. Upon DENR approval, Pennington County must review and approve sufficient design, installation and operating information prior to installation.

SECTION 314 – EXPERIMENTAL ON-SITE WASTEWATER TREATMENT SYSTEMS

ADMINISTRATIVE REQUIREMENTS

- A. Where unusual conditions exist, experimental methods of on-site wastewater treatment and disposal may be employed provided they are approved by DENR and acceptable to Pennington County.
- B. When considering proposals for experimental on-site wastewater treatment systems, Pennington County shall not be restricted by this Ordinance provided that:
 - 1. The experimental system proposed is attempting to resolve an existing pollution or public health hazard, or when the experimental system proposal is for new construction, it has been predetermined that an acceptable back-up wastewater system will be installed in event of failure of the experimental system.
 - 2. The proposal for an experimental on-site wastewater treatment system must be in the name of and bear the signature of the person who will own the system.
 - 3. The person proposing to utilize an experimental system has the responsibility to maintain, correct, or replace the system in event of failure of the experimental system.

GENERAL REQUIREMENTS

- A. All experimental systems shall be designed, installed and operated under the following conditions:
 - 1. Pennington County may impose more stringent design, installation, operating and monitoring conditions than those required by DENR.
 - 2. All failures, repairs or alterations shall be reported to Pennington County. All repairs or alterations must be approved by DENR and Pennington County.
 - 3. Pennington County shall require a signed contract between the homeowner and a licensed/certified O&M service provider prior to approval of the experimental on-site wastewater treatment system. The contract shall be maintained for the duration the on-site wastewater treatment system is utilized. The contract must be filed with the Pennington County Planning Department and updated if any changes are made or a new contract is established.
- B. All experimental systems must be submitted by the applicant to DENR and approved through DENR prior to submission to Pennington County.

SECTION 315 – SEWAGE HOLDING TANKS

ADMINISTRATIVE REQUIREMENTS - Sewage holding tanks are permitted only under the following conditions:

- A. Where an on-site wastewater treatment system for an existing dwelling has failed and installation of a replacement on-site wastewater treatment system does not meet the requirements of this Ordinance; or,
- B. For other extenuating situations where Pennington County agrees that a conventional, alternative or experimental system will not meet the criteria set forth in this Ordinance.

Requests for the use of sewage holding tanks must receive approval from Pennington County prior to installation.

GENERAL REQUIREMENTS

- A. A statement must be submitted by the owner indicating that, in the event his sewage holding tank is approved, he or she pump the tank periodically, at regular intervals or as needed, and that the wastewater contents will be disposed of in a manner and at a facility meeting approval of 40 C.F.R. Part 503. The agreement shall be filed with the Pennington County Planning Department and updated if any changes are made or a new agreement is established.
- B. Pumping records, maintenance records and manifests must be kept by the owner for a period of six years for review by Pennington County to ensure pumping of the holding tanks.
- C. Pennington County may require that sewage holding tanks be filled with water and allowed to stand overnight to check for leaks. Tanks exhibiting obvious defects or leaks shall not be approved unless such deficiencies are repaired.
- D. Holding tanks that receive both black and gray water (combined) the capacity of the tank must hold a minimum of seven days sewage flow or 1,500 gallons, whichever is greater.
- E. Holding tanks which receive only gray water, the capacity of the tank must hold a minimum 1,500 gallons.
- F. Holding tanks which receive only black water, the capacity of the tank must hold a minimum seven days sewage flow or 1,000 gallons, whichever is greater.
- G. All tanks shall be located in an area which is accessible by a pumper truck for the pumping of their contents. There shall be no structure of any kind covering any of the tanks or impeding access to the tank(s).
- H. Must be located in an area where it will not tend to float out of the ground due to a high groundwater table or a saturated soil condition, since it will be empty or only partially full most of the time. In areas where the groundwater table may be high enough to float the tank out of the ground when empty or partially full, adequate ground anchoring procedures shall be provided.
- I. There shall be no discharge of effluent from a holding tank that receives black water or combined black and gray water.
- J. Septic tanks and cisterns shall not be allowed to be used as a holding tank.

SECTION 316 – SERVICE PROVIDERS

APPLICABILITY – This section does not apply to a person who is employed by, or performs labor and services for:

- A. A certified installer in connection with the construction, installation, repair, or alteration of an on-site wastewater treatment system performed under the direct and personal supervision of the certified installer.
- B. A pumper in connection with the pumping of septic tanks, pump tanks, media filters, and ATU's performed under the direct supervision of the pumper.

- C. An O&M Service Provider in connection with the operation and maintenance of alternative, experimental or unconventional, on-site wastewater treatment systems performed under the direct supervision of the O&M Service Provider.

REQUIREMENTS FOR ALL SERVICE PROVIDERS – All service providers operating in Pennington County must:

- A. Have a Sales and/or Excise Tax License Number; and,
- B. Have general liability insurance.

Proof of these documents must be registered with the Planning and Zoning Department prior to any work on on-site wastewater treatment systems in Pennington County and submitted with any necessary applications. Property Owners and/or homeowners installing an on-site wastewater treatment system on his or her own property that are certified installers of on-site wastewater treatment systems (as described below under INSTALLERS) are exempt from the sales and/or excise tax license and liability insurance requirements of service providers.

INSTALLERS

INSTALLER CERTIFICATION REQUIRED - No person shall construct, install, alter, repair or offer to construct, install, alter or repair an on-site wastewater treatment system in Pennington County without certification from Pennington County.

REQUIREMENTS – Pennington County shall issue certification to an applicant who satisfies all of the following requirements:

- A. Is at least 18 years of age;
- B. Has received certification from South Dakota DENR for installation of on-site wastewater treatment systems;
- C. Submits a properly completed application to Pennington County;
- D. If the applicant has prior experience providing on-site wastewater treatment system services and has a current DENR installer certification, he or she must complete one of the following:
 - 1. Pass the National Environmental Health Association (NEHA) Certified Installer Examination (Basic or Advanced); or
 - 2. Attend eight-hour Installer Education Course; or
 - 3. Obtain Continuing Education Credits (minimum eight hours of contact time); or
- E. If the applicant has no prior experience, he or she must, at a minimum, pass the NEHA Basic On-site Wastewater Installer Certification Exam.

Pennington County shall require continuing education as a condition of certification and renewal. The Board of Commissioners, or its designee, shall determine the number of hours, a minimum of eight contact hours, per year. The Board of Commissioners, or its designee, may approve a

continuing education program or course if that program or course provides useful educational information or experience that will enhance the construction, installation, repair, or alteration of on-site wastewater treatment systems.

CERTIFICATION RENEWAL - All certifications shall expire two years from the application date. To renew a certification, an installer must submit an application for renewal and meet one of the following conditions:

- A. Attend eight-hour Installer Education Course; or
- B. Obtain Continuing Education Credits (minimum eight hours of contact time); or
- C. Pass the NEHA Certified Installer Examination (Basic or Advanced)

LIQUID WASTE PUMPERS

PUMPER CERTIFICATION REQUIRED - No person or entity shall pump septic tanks, pump tanks, holding tanks, and ATU's in Pennington County without meeting the requirements set forth in "Requirements for All Service Providers" above.

REQUIREMENTS – A pumper that fills out an Observation Form for the purposes of the issuance of an Operating Permit, must, at a minimum, obtain the South Dakota DENR certification for installing on-site wastewater treatment systems.

SERVICE PROVIDERS, O&M

O&M CERTIFICATION REQUIRED - No person shall perform operation and maintenance, typically on alternative, experimental or unconventional, on-site wastewater treatment systems in Pennington County without meeting the requirements set forth in "Requirements for All Service Providers" above.

REQUIREMENTS – An O&M service provider must meet one of the two criteria:

- A. Be certified through manufacturer of equipment to be serviced or maintained, or
- B. Pass the NEHA Advanced Certified Installer Examination

TIMEFRAME FOR WHICH TO COMPLY - All service providers operating in Pennington County for the purpose of constructing, installing, repairing, altering, servicing, maintaining or pumping on-site wastewater treatment systems must comply with this Section within six months of the date the Ordinance is adopted.

SECTION 317 – INSPECTION OF NEWLY INSTALLED, ALTERED OR REPAIRED ON-SITE WASTEWATER TREATMENT SYSTEMS

NEW CONSTRUCTION, INSTALLATION, ALTERATION OR REPAIR - A person intending to construct, install, alter or repair a major component of an on-site wastewater treatment system shall, before construction begins, apply to Pennington County for an On-site Wastewater Treatment System Construction Permit. That person shall not begin construction

until Pennington County approves the On-site Wastewater Treatment System Construction Permit Application and the Preliminary Evaluation is complete. The process for obtaining an On-site Wastewater Treatment System Construction Permit will include the following:

- A. The property owner shall submit an On-site Wastewater Treatment System Construction Permit Application, which could include:
 - 1. Type of system.
 - 2. Components of the system.
 - 3. Size of septic tank or holding tank.
 - 4. Size of drainfield.
 - 5. Distance of system to pertinent areas (i.e. setbacks).
 - 6. Site plan.
 - 7. Floor plan of dwelling, including all finished and unfinished areas.
 - 8. Field evaluation.
 - 9. Soil profile log.
 - 10. Percolation test information.
 - 11. Source and location of domestic water supply.
 - 12. Replacement Area for absorption system.
 - 13. Printed name and signature of certified installer

- B. Pennington County will conduct a Preliminary Evaluation of the proposed system. If the Preliminary Evaluation is acceptable, Pennington County will notify the property owner that construction of the system may begin. If the Preliminary Evaluation is not acceptable, Pennington County will specify changes or additions that must be made to the permit application to make it acceptable. The property owner may not begin construction until the Preliminary Evaluation is complete and acceptable.

- C. Following construction of the system and before backfill of the system, Pennington County will conduct an on-site wastewater treatment system inspection.

- D. Pennington County will complete a Final Evaluation Form, which includes:
 - 1. System Sizing.
 - 2. Trench or bed configuration, if applicable.
 - 3. Engineered design and DENR approval, if applicable.
 - 4. Setbacks.
 - 5. Final “as-built” drawing of system – must be signed by an Installer certified in Pennington County.
 - 6. GPS coordinate of septic tank.

- E. Following the completion of the final evaluation by Pennington County, the system will then be registered with the County and an Operating Permit issued.

SECTION 318 – CONSTRUCTION PERMIT FEES

Fees to cover expenses, including, but not limited to: administration, overhead, labor, storage, training, mileage, analytical testing, etc., by the Planning and Zoning Department, shall be set by resolution by the Pennington County Board of Commissioners.

On-site Wastewater Treatment System Construction Permits:

- A. The fee for the inspection of an on-site wastewater treatment system shall be \$100 per inspection, with a \$300.00 minimum fee.
- B. The original fee (\$300) allows for a maximum three on-site inspections. Any additional inspections will require a fee of \$100.00.
- C. For inspections outside normal office hours, the rate shall be \$250 in addition to the original fee.

SECTION 400 – EXEMPTION FOR OPERATING PERMIT

SECTION 401 – QUALIFICATIONS FOR EXEMPTION

To qualify for the exemption, the following criteria must be met:

- 1. The land consists of not less than 40 acres of unplatted land; and,
- 2. The land is not zoned Commercial or Industrial.

SECTION 500 – ADMINISTRATION AND ENFORCEMENT

SECTION 501 – NOTICE OF NON-COMPLIANCE AND CORRECTIVE ACTION

Upon receiving written notice from Pennington County of a violation of this Ordinance, the owner of the property containing such on-site wastewater treatment system shall, within 30 days, submit a proposed corrective action. Pennington County shall review the proposed corrective action and amend it as required to conform to this Ordinance. The owner shall complete all necessary corrective actions within a maximum of 180 days following approval from Pennington County. Once final approval of the completed corrective action is granted, the system shall be deemed in compliance with this Ordinance.

SECTION 502 – APPEALS

Appeal to the Pennington County Planning Director:

An owner aggrieved by the decision made pursuant to the Pennington County On-site Wastewater Treatment Systems Ordinance, referencing their on-site wastewater treatment system, may appeal to the Pennington County Planning Director. The appeal must be in writing and must specify the grounds for appeal. The written appeal must be received by the Pennington County Planning Department no later than 30 days after actual receipt of the Notice of Non-Compliance by the owner or after the date of the Notice of Non-Compliance is mailed by the Planning Department, whichever is sooner. The Notice of Decision from the Planning Director, on that appeal, shall be mailed within 30 days after the receipt by the Planning Department of a timely appeal.

If the appeal to the Planning Director is denied, the owner may file a second appeal with the Pennington County Planning Commission. If the owner chooses not to file a second appeal, the owner shall complete all necessary corrective actions within a maximum of 180 days following the date the Notice of Decision was received. If the appeal is granted, the Planning Director will notify the owner with a Notice of Decision by mail.

Appeal to the Planning Commission:

If the appellant is not satisfied with the Pennington County Planning Director's decision, the appellant may file a second written appeal to be heard by the Pennington County Planning Commission. Such an appeal shall be filed with the Pennington County Planning Department no later than 30 days after receipt by the appellant of the Planning Director's decision or 30 days after the date the Notice of the Decision is mailed by the Pennington County Planning Department, whichever is sooner. The Planning Commission meets the second and fourth Monday of each month. The agenda for each meeting is prepared the first and third Monday of each month. A Notice of Hearing will be mailed to the appellant at least 14 days prior to their scheduled hearing date. The Planning Commission's decision and/or recommendation shall be forwarded to the next scheduled Pennington County Board of Commissioners meeting. The Board of Commissioners shall vote to uphold, overrule, or amend the decision and/or recommendation of the Planning Commission. The decision shall be final.

SECTION 503 – AMENDMENTS

The regulations, restrictions and standards set forth in this On-site Wastewater Treatment System Ordinance may, from time to time, be amended, supplemented, revised, or repealed as conditions warrant, subject to the following conditions:

Application to Amend this Ordinance:

An Ordinance Amendment shall be filed with the Pennington County Planning Department. Ordinance Amendments may be initiated by a property owner or his/her designated representative, by a governmental agency, or by the Board of Commissioners.

Public Hearing:

Upon application, the Pennington County Board of Commissioners shall hold a public hearing on the proposed Ordinance Amendment. Notice of the public hearing shall be given at least ten (10) days prior in advance by publication in a newspaper having general circulation in Pennington County.

Restrictions on Applications:

No more than one Ordinance Amendment application may be submitted by an individual, or his representative, or agent, in any twelve (12) month period concerning the same or similar amendment to a regulation, restriction or standard except upon a showing by the applicant of a material change of circumstances sufficient to justify reconsideration of the proposed Ordinance amendment. This section shall not apply to a governmental agency or to the Board of Commissioners.

SECTION 504 – VIOLATIONS AND PENALTIES

In addition to all other remedies available to Pennington County to prevent, correct or abate Ordinance violations, a violation of these On-site Wastewater Treatment System Ordinances is also punishable by a fine and/or imprisonment pursuant to SDCL 7-18A-2 as provided below:

A fine not to exceed \$500.00 for each violation or by imprisonment for a period not to exceed 30 days for each violation, or by both the fine and imprisonment. Each day the violation continues shall constitute a separate violation. The date of the first violation shall be the date upon which the property owner first received notice of the violation.

SECTION 505 – SEVERABILITY

This On-site Wastewater Treatment System Ordinance and the various parts, sections, subsections and clauses thereof, are hereby declared to be severable. If any part, sentence, paragraph, subsection, section, or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, it is hereby provided that the remainder of this On-site Wastewater Treatment System Ordinance shall not be affected thereby.

SECTION 506 – REPEAL

Any Ordinance or regulation or portion thereof in conflict with the provisions contained herein is hereby repealed.

Dated this 6th day of July, 2010.

PENNINGTON COUNTY COMMISSION

/s/Ethan Schmidt, Chairperson

ATTEST: /s/Julie A. Pearson, Auditor

(SEAL)

ITEMS FROM EMERGENCY SERVICES COMMUNICATIONS CENTER

A. OUT OF CLASS PAY REQUEST: MOVED by Young and seconded by Trautman to authorize the Emergency Services Communications Center to pay a senior dispatcher (Grade 16) at an Out-of-Class rate of Grade 17 for the hours worked as an acting supervisor. Vote: Unanimous.

ITEMS FROM EQUALIZATION

A. ABATEMENT APPLICATION: MOVED by Glassgow and seconded by Young to approve the 2009 abatement/refund for Chris Howie, Parcel ID 54814, \$1031.89. Vote: Unanimous.

Holbrook left the meeting.

ITEMS FROM FIRE ADMINISTRATOR

A. CAPITAL OUTLAY PROJECT FUNDS – RESERVE DESIGNATION: MOVED by Young and seconded by Trautman to designate County Fire reserve funds for the following projects in 2012: Maintenance Facility, \$200,000; Firefighter Accountability System, \$25,000; Pump Testing Equipment, \$25,000. Vote: Unanimous.

ITEMS FROM HEALTH & HUMAN SERVICES

A. COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) CONTRACT: MOVED by Glasgow and seconded by Young to authorize Health & Human Services Director Karen Romey to sign the contract for the Community Development Block Grant funding. Vote: Unanimous.

Holbrook returned to the meeting.

ITEMS FROM HIGHWAY DEPARTMENT

A. STATE CONTRACT LIST – ROAD SALT: MOVED by Holbrook and seconded by Trautman to authorize the Highway Department to purchase Road Salt from Nebraska Salt & Grain Co., 115 W 16th Street, Gothenburg, NE 69138 per State Contract #15972. Vote: Unanimous.

2011 PROVISIONAL BUDGET DISCUSSION AND POSSIBLE REVISIONS

MOVED by Glasgow and seconded by Trautman to add \$25,000 to the Health & Human Services economic assistance budget, increasing the total from \$158,700 to \$183,700. Vote: Unanimous.

REAUTHORIZATION OF SECURE RURAL SCHOOLS AND COMMUNITY SELF-DETERMINATION ACT – LETTERS OF SUPPORT: MOVED by Glasgow and seconded by Holbrook to continue this item to the July 20, 2010, Board of Commissioners' meeting and invite area school superintendents to attend. Vote: Unanimous.

MISCELLANEOUS

A. APPROVE VOUCHERS: MOVED by Trautman and seconded by Holbrook to approve the vouchers listed at the end of the minutes for expenditures for insurance, professional services, publications, rentals, supplies, repairs, maintenance, travel, conference fees, utilities, furniture and equipment, and authorize the chair's signature thereto. Vote: Unanimous.

REQUEST TO RESCIND ACTION – APPEAL OF CONDITIONAL USE PERMIT / CU 10-08 CHRIS AND JOLENE HINCKLEY:

Commissioner Trautman recused herself from the meeting at this time.

MOVED by Young and seconded by Holbrook to rescind the May 18, 2010, action of the Board of Commissioners sustaining the Pennington County Planning Commission's recommendation to deny Conditional Use Permit CU 10-08 for Chris and Jolene Hinckley. Vote: Unanimous. (Trautman abstained)

Trautman returned to the meeting at this time.

PLANNING AND ZONING COMMISSION INTERVIEWS & APPOINTMENTS:

After interviews of the applicants in attendance, the Board of Commissioners voted by ballot to approve Jim Coleman and Karen Hall for three-year terms on the Pennington County Planning & Zoning Commission effective July 6, 2010.

The Board recessed from 12:10 p.m. until 12:20 p.m.

MOVED by Glassgow and seconded by Trautman to reconsider Item 18: Secure Rural Schools - Community Self-Determination Act. Vote: Unanimous. MOVED by Glassgow and seconded by Holbrook to continue this item to the August 3, 2010, Board of Commissioners' meeting due to a scheduling conflict with the area school superintendents. Vote: Unanimous.

ITEMS FROM PLANNING & ZONING

MOVED by Young and seconded by Trautman to convene as a Board of Adjustment. Vote: Unanimous.

A. VARIANCE / VA 10-12: Epic Outdoor Advertising; Willard Werth – Owner. To allow for an off-premise billboard within 456 feet, 606 feet, and 771 feet from another off-premise billboard and 636 feet and 1,062 feet from another off-premise billboard in a General Commercial District in accordance with Sections 209, 312 and 509 of the Pennington County Zoning Ordinance.

Lot H2 Revised of Tract B, Section 27, T2N, R8E, BHM, Pennington County, South Dakota.

Chairman Schmidt recused himself from this item and passed the gavel to Commissioner Trautman.

MOVED by Holbrook and seconded by Glassgow to deny Variance / VA 10-12 pursuant to staff recommendation. Substitute motion: MOVED by Trautman and seconded by Holbrook to approve Variance 10-12 with the seven (7) conditions recommended by Planning staff, plus an additional condition requiring that an area of 50' around the base of the sign be mowed a minimum of twice each year. Vote: Unanimous (Schmidt abstained).

1. That the applicant obtain an approved Sign Permit from the South Dakota Department of Transportation prior to construction of the off-premise sign; 2. That the applicant obtain an approved Sign Permit from the City of Box Elder; 3. That the off-premise sign not be illuminated

unless a Conditional Use Permit is approved to allow for such use; 4. That the overall height of the off-premise sign, including ground clearance, not exceed 30 feet and the maximum display area not exceed 400 square feet on each face; 5. That the sign must meet a minimum of a five (5) foot setback from the front property line and twenty-five (25) foot setbacks from all side and rear property lines and that no part of the sign or infrastructure be located in any right-of-way; 6. That the two older off-premise signs already located on the property be removed prior to issuance of the Sign Permit for the new off-premise billboard; 7. That the sign conform to all regulations in Section 312 of the Pennington County Zoning Ordinance at all times; and, 8. That an area of 50 feet around the base of the sign be mowed a minimum of twice each year.

Commissioner Trautman passed the gavel back to Chairman Schmidt.

B. VARIANCE / VA 10-13: Tyler Hilmer; Samuel Hilmer – Owner. To allow a manufactured home in the 65-70 Noise Zone of the Ellsworth Air Force Installation Compatible Use Area (AICUZ) in a General Agriculture District in accordance with Sections 205 and 509 of the Pennington County Zoning Ordinance.

The SE1/4, Section 19, T1N, R10E, BHM, Pennington County, South Dakota.

MOVED by Young and seconded by Trautman to approve Variance 10-13 with one condition. Holbrook called question. Vote on the question: Unanimous. Vote on the original motion: Unanimous.

1. That the applicant sign a statement, to be recorded at the Register of Deeds' Office, acknowledging that he is aware of the potential health impacts of residing within the 65-70 Noise Zone and releasing Pennington County from any associated liability as a result of granting this Variance to the Development Standards of the AICUZ.

MOVED by Trautman and seconded by Young to adjourn as the Board of Adjustment and reconvene as the Board of Commissioners. Vote: Unanimous.

C. LAYOUT PLAT / PL 10-18: Gary Kuhl. To create Lots 1 and 2 of Tract 4 of Schacher Subdivision, in accordance with Section 400.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Tract 4, Schacher Subdivision, Section 24, T1S, R6E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lots 1 and 2, Schacher Subdivision, Section 24, T1S, R6E, BHM, Pennington County, South Dakota.

MOVED by Holbrook and seconded by Glasgow to approve Layout Plat / PL 10-18 with the following fourteen (14) conditions pursuant to Planning Commission recommendation. Vote: Unanimous.

1. That prior to applying for the Minor Plat, the applicant must provide adequate percolation test results, which includes eight (8) foot soil profile information, for proposed Lot 2 to be reviewed by the Environmental Planner or else a Subdivision Regulations Variance be obtained waiving this requirement; 2. That prior to applying for the Minor Plat, the drainfield location on proposed Lot 2 be relocated so that it abuts the soil profile hole or a new soil profile hole be excavated at the drainfield location indicated on the site plan and inspected by the Pennington County Environmental Planner; 3. That prior to County Board approval of the Final Plat, the applicant improve the Section Line to Ordinance 14 Standards or else obtain a Subdivision Regulations Variance waiving this requirement; 4. That the access easement for proposed Lot 1 be dedicated as a separate document from the plat document and recorded at the Register of Deeds and the easement shown on the plat document reference the filing information from the Register of Deeds; 5. That prior to County Board approval of the Minor Plat, the applicant provide engineered road construction plans for any road improvements to be made or else a Subdivision Regulations Variance be obtained waiving this requirement; 6. That prior to County Board approval of the Minor Plat, the access easement be improved to Local/Collector road standards for a Low Density Residential District, including a 66-foot-wide right-of-way with a 24-foot-wide driving surface and four (4) inches of gravel, or else a Subdivision Regulations Variance be obtained waiving this requirement; 7. That the address for the residence on proposed Lot 1 be posted at the approach onto South Rockerville Road in accordance with Pennington County's Ordinance #20 prior to Final Plat approval; 8. That the address for the residence on proposed Lot 2 be posted at the approach onto Neck Yoke Road in accordance with Pennington County's Ordinance #20 prior to Final Plat approval; 9. That prior to Minor Plat submittal, an Approach Permit for proposed Lot 2 be obtained; 10. That the minimum setback requirements be met from the existing structures and utilities to the proposed lot lines and, if applicable, a Variance be obtained from DENR for any alterations to the existing on-site wastewater system if it is determined to not be meeting the minimum separation distance to any nearby wells; 11. At the time the Minor Plat is recorded, a Well Easement Agreement, for the well located on proposed Lot 1, shall be recorded at the Register of Deeds Office for the residence on proposed Lot 2; 12. That eight (8) foot utility and minor drainage easements be dedicated on the interior sides of all lot lines on the Minor Plat in accordance with Section 500.4-9-a or an approved Subdivision Regulations Variance be obtained waiving this requirement; 13. That at the time of submittal for the Minor Plat, the plat meets all the requirements of Section 400.3 of the Pennington County Subdivision Regulations, including the Plat to be scaled at not more than one (1) inch equals one hundred (100) feet, and topographic information be provided of the subject property at five (5) foot contour intervals or the applicant obtains an approved Subdivision Regulations Variance waiving any of these requirements that are not met; and, 14. That approval of this Layout Plat does not constitute approval of any further applications to be submitted for the above-described property.

Holbrook left the meeting

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D. MINOR PLAT / PL 10-20 AND SUBDIVISION REGULATIONS VARIANCE / SV 10-06:
Tom Farnsworth. To create Tracts A and B of Farnsworth Subdivision and to waive platting requirements in accordance with Sections 400.3 and 700.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: All of HES No. 632 of Section 22 and Lot 9 less RTY of Section 27, all located in T1S, R1E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Tracts A and B of Farnsworth Subdivision, Sections 22 and 27, T1S, R1E, BHM, Pennington County, South Dakota.

MOVED by Trautman and seconded by Young to sustain the Planning Commission recommendation to deny the portion of Subdivision Regulations Variance 10-06 to waive the requirement for the limits of the 100-year floodplain to be shown on the plat in accordance with current FEMA maps and approve the portion of Subdivision Regulations Variance 10-06 to waive the following platting requirements: 1. Road improvements to be conducted to General Agriculture District Local/Collector Road Standards; 2. Section Line Improvements in accordance with Ordinance 14 Standards; 3. Engineered road construction plans to be submitted; 4. The scale of the plat to be no greater than one (1) inch equals 100 feet (the prepared plat is drawn at a one (1) inch equals 400 feet); 5. Percolation test results and soil profile information to be provided for proposed Tract B; and, 6. An as-built site plan to be submitted; and further moved to approve Minor Plat 10-20 with the following ten (10) conditions. Vote: Unanimous.

1. That Six Mile Road be shown as 66-feet of dedicated right-of-way on the plat;
2. That eight (8) foot utility and drainage easements be dedicated along the interior of all lot lines;
3. That the proper Street Authority Certificate and Water Protection Statement be included on the final plat in accordance with Section 400.3-1-n-7 and -9 of the Pennington County Subdivision Regulations;
4. That the Governing Board Resolution be altered and shown as Certification on Plat by County Auditor in accordance with Section 400.3-1-n-3(a) of the Pennington County Subdivision Regulations;
5. That all corrections to the plat be made in conformance with the Highway Department's, Register of Deeds', and Department of Equalization's comments and the metes and bounds descriptions of the proposed lots be removed from the plat document;
6. That the limits of the 100-year floodplain be shown on the plat in accordance with current FEMA maps and a Floodplain Statement be included on the plat;
7. That percolation test results and soil profile hole information be provided and an On-Site Wastewater Construction Permit be obtained prior to installation of an on-site wastewater treatment system on proposed Tract B;
8. That original, signed and notarized applications by both property owners for both the Minor Plat and Subdivision Regulations Variance are submitted prior to approval of the Minor Plat by County Board;
9. That an approved Floodplain Development Permit be obtained prior to any work that is to be done within the boundaries of the 100-year floodplain; and,
10. That an approved Approach Permit from the County Highway Department be obtained prior to the alteration of any existing or construction of any new approaches providing access to the proposed lots.

E. PLANNED UNIT DEVELOPMENT REVIEW / PU 02-03: James Buchanan. To review a Planned Unit Development to allow 29 residential lots and a day-use retreat center in accordance with Section 213 of the Pennington County Zoning Ordinance.

S1/2S1/2NE1/4, E1/2SE1/4, E1/2NW1/4SE1/4, Section 8 and the S1/2SW1/4NW1/4, SE1/4NW1/4, and the balance of NE1/4SW1/4, W1/2SW1/4 and Lot A of the NE1/4 SW1/4, Section 9, T1S, R6E, BHM, Pennington County, South Dakota.

MOVED by Trautman and seconded by Young to approve the extension of Planned Unit Development 02-03 with the following seventeen (17) conditions pursuant to Planning Commission recommendation. Vote: Unanimous.

1. That a maximum of twenty-eight (28) residential lots on the 320 acre parcel be allowed;
2. That only one single-family residence is allowed on each lot, with the exception of the existing residence that was constructed in 1996 which may also be used as a day-retreat center;
3. The day-retreat center shall maintain a minimum of six (6) off-street parking spaces for use by guests and shall have no more than three (3) employees other than family members residing on the premise;
4. That the minimum setback for all structures shall be twenty-five (25) feet from any property line and fifty-eight (58) feet from any Section Line;
5. That Building Permits be obtained for any structure exceeding 144 square feet or located on a permanent foundation, which includes the necessary site plans to be reviewed and approved by the Planning Director;
6. That a drainfield reserve area be provided for each residential lot. This reserve area shall be shown on the plat of the lot;
7. Each residential lot shall be provided with a minimum 1,500 gallon septic tank;
8. That the Planned Unit Development follows the Special Animal Keeping Regulations, as outlined in Section 204 of the Zoning Ordinance, in determining the number of allowable animals;
9. That a dry hydrant be installed in the community pond to provide fire protection to the area;
10. That the community park be maintained by a Homeowner's Association made up of the lots within the Baker Park development;
11. That prior to issuing any Building Permits, all subdivision roads providing access to five (5) or more lots, Boulder Hill Road and Baker Park Road, be constructed to Local Road Standards, with engineered road plans to be submitted with the Preliminary Plat;
12. That all subdivision roads providing access to less than five (5) lots shall be constructed to meet Minor Local Road Standards, with engineered road plans to be submitted with the Preliminary Plat;
13. That a Homeowner's Association maintains all subdivision roads;
14. That prior to issuing any Building Permits and County Board approval of the Planned Unit Development, the applicant shall provide the U.S. Forest Service a transportation plan and utility plan for review and approval;
15. That prior to County Board approval the owner provides documentation of permission to utilize Forest Service Roads and/or easements;
16. That the existing farm house be allowed to remain during the construction of a new single-family residence and once the new residence is habitable, the existing farm house will either need to be demolished or converted into a storage building or studio; and,
17. That this Planned Unit Development be reviewed in two (2) years or upon a complaint basis to determine that all conditions of approval are being met.

F. LAYOUT PLAT / PL 10-19: Keith and Lona Lau; D.C. Scott Surveyors - Agent. To create Lots 1, 2, 3, 4, and 5 of Lau Subdivision, in accordance with Section 400.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Tract 1 of Tract D in SW1/4NE1/4 and Tract 4R of Tract D located in the S1/2NW1/4 & W1/2NE1/4 less Tract 1, Section 9, T1N, R6E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lots 1, 2, 3, 4, and 5, Lau Subdivision, Section 9, T1N, R6E, BHM, Pennington County, South Dakota.

MOVED by Trautman and seconded by Young to approve Layout Plat 10-19 with the following fifteen (15) conditions pursuant to Planning Commission recommendation. Vote: Unanimous.

1. That at the time of Preliminary Plat submittal, engineered road construction plans be submitted for Wheaton Road and Hisega Road or a Subdivision Regulations Variance be obtained waiving this requirement;
2. That prior to Final Plat approval, both Hisega Road and Wheaton Road be improved to Local Road Standards, which include a 66-foot public right-of-way, 24-foot paved road with curb and sidewalks, submit a surety for the improvements or obtain approval of a Subdivision Regulations Variance waiving this requirement;
3. That prior to Preliminary Plat submittal, the applicant submits percolation tests and soil profile information for the proposed Lots to be reviewed and approved by the Environmental Planner or obtain approval of a Subdivision Regulations Variance waiving this requirement;
4. That an easement be created for the power lines traversing through the property acceptable to Black Hills Electric Cooperative;
5. That the shared driveway be improved to Local Road Standards, which includes a 66-foot public right-of-way, 24-foot paved road with curb and sidewalks, submit a surety for the improvements or obtain approval of a Subdivision Regulations Variance waiving this requirement;
6. That a turn around be constructed at the end of the shared driveway or obtain approval of a Subdivision Regulations Variance waiving this requirement;
7. That at the time of submittal of the Preliminary Plat, the applicant submits topography at 5 foot contour intervals or obtain approval of a Subdivision Regulations Variance waiving this requirement;
8. That at the time of submittal of the Preliminary Plat, the applicant must submit information in regards to water supply or letter from the Community Water System allowing hookup for all of the proposed lots;
9. That an Approach Permit be obtained for the proposed driveways off of both Hisega Road and Wheaton Road;
10. That the five remaining outbuildings be removed or a Conditional Use Permit is obtained allowing an accessory structure prior to a principle;
11. That all accessory structures maintain an eight (8) foot setback from the side and rear property lines and 25 feet from the front property line;
12. That the principle structures maintain a 25-foot setback from front and rear property lines and eight (8) feet from the side property lines once the property is rezoned to Suburban Residential District. If the properties remain Limited Agriculture District or Low Density Residential District, all structures must maintain a setback of 25 feet from all property lines;
13. That the easement located under the south residence be vacated or relocated;
14. That prior to Final Plat approval, a signature block be created for the Planning Director; and,
15. That prior to Final Plat approval, a signature block be created for Jeff Lau (1/3 owner of the property).

G. ROAD NAME: Blue Sky Trail (Formerly Turkey Hill Trail). Pennington County. Proposed road naming for the 40-foot-wide and 66-foot-wide private access easement which provides access to properties located in Section 31, T2N, R7E and Section 6, T1N, R7E, all in BHM, Pennington County, South Dakota.

MOVED by Young and seconded by Trautman to approve the road name of Blue Sky Trail pursuant to Planning Commission recommendation. Vote: Unanimous.

H. ROAD NAME CHANGE: Rock Bottom Road. Dan Schweitzer. Proposed road name change for the 40-foot-wide right-of-way that provides access to properties located in Section 18, T2S, R7E, BHM, Pennington County, South Dakota.

MOVED by Young and seconded by Trautman to approve the road name change from Rock Bottom Lane to Rock Bottom Road pursuant to Planning Commission recommendation. Vote: Unanimous.

I. LAYOUT PLAT / PL 10-21: Mark DeBolt. To combine three lots to create Lot 1R, Block 2, Pine Cliff Subdivision, in accordance with Section 400.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Lots 1-3, Block 2, Pine Cliff Subdivision, Section 31, T2N, R6E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lot 1R, Block 2, Pine Cliff Subdivision, Section 31, T2N, R6E, BHM, Pennington County, South Dakota.

MOVED by Trautman and seconded by Young to approve Layout Plat 10-21 with the following twelve (12) conditions pursuant to Planning Commission recommendation. Vote: Unanimous.

1. That prior to submittal of the Minor Plat, Pine Cliff Drive be improved to Local Road Standards including 66 feet of right-of-way, a 24 foot paved driving surface, curbs, sidewalks, and proper inslopes and backslopes, or else the applicant post a surety for the road improvements or obtain an approved Subdivision Regulations Variance waiving this requirement;
2. That prior to submittal of the Minor Plat, Berry Spur be improved to Local Road Standards including 66 feet of right-of-way, a 24 foot paved driving surface, curbs, sidewalks, and proper inslopes and backslopes, or else the applicant post a surety for the road improvements or obtain an approved Subdivision Regulations Variance waiving this requirement;
3. That prior to County Board approval of the Minor Plat, the applicant provide engineered road construction plans for any road improvements to be made or else a Subdivision Regulations Variance be obtained waiving this requirement;
4. That eight (8) foot utility and minor drainage easements be dedicated on the interior sides of all lot lines on the Minor Plat in accordance with Section 500.4-9-a or an approved Subdivision Regulations Variance be obtained waiving this requirement;
5. That prior to approval of the Minor Plat, the applicant shall work with the Pennington County Addressing Coordinator to correct the addressing discrepancy for the property;
6. That at the time of submittal for the Minor Plat, the plat meets all the requirements of Section 400.3 of the Pennington County Subdivision Regulations, including the Plat to be scaled at not more than one (1) inch equals one hundred (100) feet, and topographic information be provided of the subject property at five (5) foot contour intervals or the applicant obtains an approved Subdivision Regulations Variance waiving any of these requirements that are not met;
7. That prior to the Minor Plat be approved, the applicant shall sign the Noxious Weed Plan, which is available at the Planning Department;
8. That at the time of Minor Plat submittal, the Black Hills Electric utility easement for the existing underground cable be identified on the plat;
9. That prior to approval of the Minor Plat, the applicant obtain an approved Building Permit, which Administrative Fees will be applied, for the existing carport;
10. That Black Hills Electric

Cooperative's rights to operate and maintain the electric distribution and meter facilities are not diminished or adversely affected in any way by the proposed subdivision; 11. That a Building Permit be obtained for any new structures exceeding 144 square feet and located on a permanent foundation, which will require a site plan to be reviewed and approved by the Pennington County Planning Director; and, 12. That approval of this Layout Plat does not constitute approval of any further applications to be submitted for the above-described property.

J. PLANNED UNIT DEVELOPMENT AMENDMENT REVIEW / PU 08-04: Linda Kramer. To review a Planned Unit Development Amendment to allow for three (3) additional cabins in accordance with Section 213 of the Pennington County Zoning Ordinance.

The N1/2 of the NE1/4 lying east of County Road, Section 18, T1N, R3E, BHM, Pennington County, South Dakota.

MOVED by Trautman and seconded by Young to approve the extension of Planned Unit Development Amendment 08-04 with the following twelve (12) conditions as recommended by the Planning Commission. Vote: Unanimous.

1. That the well and the wastewater disposal system meet the requirements of the South Dakota Department of Health; 2. That the required setbacks for all structures be a minimum of 25 feet from all property lines; 3. That the permitted uses be a three (3) bedroom single-family residence, two (2) bedroom guest cabin, chapel, recreational hall, corral, three (3) one-bedroom cabins, three (3) storage barns, and accessory residential structures; 4. That the day visitor groups be limited to a maximum of 50 occupants; 5. That Building Permits be obtained for any structure exceeding 144 square feet or located on a permanent foundation, which includes the necessary site plans to be reviewed and approved by the Planning Director; 6. That a guest list be maintained and a smoke detector be placed in each sleeping room; 7. That each smoke detector be tested semi-annually for proper function. The smoke detectors must be Underwriters Laboratory (UL) listed and be either AC or battery operated; 8. That the applicant has at least one 2A-BC dry chemical fire extinguisher accessible to all guests at all times on each floor or structure; 9. That the address of the property be posted inside each cabin for the guests and outside each cabin for emergency location purposes; 10. That the applicant maintain a minimum of 24 parking spaces and that each parking space be a minimum of nine feet by eighteen feet and be maintained in dust free manner; 11. That the recreational resort be limited to one sign totaling four square feet in area and be shall be located a minimum of 17 feet from any property line; and, 12. That this Planned Unit Development be reviewed in three (3) years or upon a complaint basis.

K. FIRST READING AND PUBLIC HEARING OF PLANNED UNIT DEVELOPMENT AMENDMENT / PU 10-01: Tammy Brodie-Gusmano; Leon Brodie – Owner. To amend a Planned Unit Development to allow for additional uses to occur on the property, such as Sunday Brunches, tea parties, a patio area for BBQs, and other special events to be hosted on the property. The applicant is also requesting an on-premise lighted sign and to allow the Rushmore Soccer Club to train once a week with no more than 20 players at a time in accordance with Section 213 of the Pennington County Zoning Ordinance.

Lot 6 of Tract A, Knights Acres Subdivision, Section 14, T1N, R8E, BHM, Pennington County, South Dakota.

MOVED by Young and seconded by Trautman to continue Planned Unit Development Amendment 10-01 to the August 3, 2010, Board of Commissioners' meeting at the applicant's request. Vote: Unanimous.

L. 319 PROJECT – SPRING CREEK: MOVED by Young and seconded by Trautman to authorize the Pennington County Planning Director to make minor operational changes to the Spring Creek Watershed Management and Project Implementation Plan – Segment 1 to stay within budget. Vote: Unanimous.

EXECUTIVE SESSION PER SDCL 1-25-2

MOVED by Trautman and seconded by Young to convene in Executive Session. Vote: Unanimous. The Board remained in Executive Session from 1:10 p.m. until 1:36 p.m. MOVED by Young and seconded by Trautman to adjourn from Executive Session. Vote: Unanimous.

PERSONNEL: Buildings & Grounds – Effective 7/1/2010: G. Drewitz, \$2445. Jail – Effective 7/1/2010 – J. Marmolejo-Mechaley, \$13.10/hr. CCADP – Effective 7/1/2010: C. Stahlecker, \$2827. JSC – Effective 7/1/2010: D. Oster, \$5750; C. Leveque, \$6041. 24/7 Program – Effective 6/24/10: K. Mikkonen, \$15.54.

AUDITOR'S ACCOUNT OF THE TREASURER

To the Pennington County Board of Commissioners, I hereby submit the following report of my examination of the cash and cash items in the hands of the County Treasurer as of June 16, 2010: Total balances of checking/savings accounts, \$22,856,174.91; Total balance of Treasurer's Office safe cash, \$7,600.00; Total certificates of deposit, \$5,673,059.95; Total Prime Value Investment, \$3,941,158.69; Total petty cash, \$111,015.00; Total Cash Items Paid, \$159.25; Total cash items/net NSF checks, \$366.19; Total **long**/short, \$390.80; Total, \$32,589,143.19. Submitted by Lori Wessel, Deputy Auditor.

PAYROLL: Commissioners, 9,109.42; Human Resources, 4,386.08; Elections, 22,593.37; Auditor, 18,222.70; Treasurer, 47,607.98; Data Processing - Law, 10,153.14; Data Processing - General, 33,835.43; State's Attorney, 130,845.18; Public Defender, 92,278.15; Juvenile Diversion, 11,110.09; Victim's Assistance, 11,335.92; Buildings & Grounds, 99,457.18; Equalization, 63,975.65; Register of Deeds, 29,081.80; Sheriff, 272,466.68; Courthouse Security, 8,661.32; Service Station, 9,200.25; Arrest Grant, 11,472.05; HIDTA Grant, 9,758.83; CARE Budget, 0.00; Jail, 429,878.20; Jail Work Program, 4,927.92; Jail Medical, 2,969.75; Jail Maintenance, 11,029.51; Hill City Law, 12,051.25; Keystone Law, 5,772.56; New Underwood – Law, 4,285.92; School Liaison, 19,263.24; Wall Law, 11,504.87; JSC Teachers, 27,738.79; Home Detention, 7,569.75; Alcohol & Drug, 147,642.66; Friendship House, 28,797.09; Prevention Program, 6,034.00; Dispatch, 148,631.84; Ordinance, 3,355.50; Economic Assistance, 42,943.11; Mental & Alcohol-SAO, 7,255.55; Mental & Alcohol-HHS, 3,278.09; Extension, 4,866.75; Weed & Pest, 23,611.82; Planning and Zoning, 20,865.90; Water Protection, 4,078.42; Juvenile Services Center, 254,762.40; JSC Maintenance, 5,619.58;

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Highway, 221,429.07; Drug Seizure, 5,633.43; Fire Administration, 6,469.45; Emergency Management, 8,108.01; Emergency Management, 1,252.47; 24-7 Program, 18,570.27.

VOUCHERS: Verizon, 5,255.36; First Interstate Bank, 4,008.25; BH Power Inc, 2,862.43; City of Rapid City-Water, 20,996.07; Montana Dakota Utilities, 5,928.38; Knology, 5,881.92; Pioneer Bank Visa, 6,513.48; Alltel, 241.42; SD Risk Pool, 629.44; Central States Fair, Inc, 26,118.35; CBM Food Service, 55,648.47; Mt Rushmore Telephone, 43.09; City of Hill City, 55.80; City of Wall, 117.38; Red River Service Corp, 44.84; West River Electric, 745.27; First Administrators, 202,054.07.

ADJOURN

MOVED by Young and seconded by Trautman to adjourn the meeting at 1:36 p.m. Vote: Unanimous.

/s/Julie A. Pearson, Auditor

Published once at total approximate cost of _____.

Publish: July 21, 2010