

MOODY COUNTY

ZONING

FORMS

&

WAIVERS

Revised 01/10

BUILDING

PERMIT

APPLICANT
HOW DO I OBTAIN A BUILDING PERMIT?

A building permit is required whenever a structure is moved into the community, erected, added to, or structurally altered.

- ⇒ Meet with the Administrative Official (Director of Equalization) and ask for a Building Permit application.
- ⇒ Complete the application and pay the appropriate fee.
- ⇒ In addition to the application a site plan shall also be submitted including the following:
 - A site plan, drawn to scale, showing the exact size, shape, and dimensions of the lot to be built upon, the exact size and location on the lot of all existing buildings and structures, and the exact size and location on the lot of the structure or building proposed to be repaired, altered, erected, or moved, and the size, arrangement, number of parking stalls, movement of vehicles and ingress and egress drives for all off-street parking and loading facilities.
 - The location of the said lot with respect to existing rights-of-way and adjacent lots.
 - Any other information which the Administrative Official may deem necessary for consideration in enforcing the provisions of this Ordinance.
- ⇒ The Administrative Official will review your application and will either approve or disapprove the application.
- ⇒ Your application may be denied because you may be required to either rezone your property, or obtain a conditional use permit or variance prior to receiving a building permit.

**ADMINISTRATIVE OFFICIAL
BUILDING PERMIT CHECK LIST**

**** INFORMATION PERTAINING BUILDING PERMITS MAY BE FOUND IN SECTION 3.01 OF THE ZONING ORDINANCE STARTING ON PAGE 43.**

A building permit is required whenever a structure is moved into the community, erected, added to, or structurally altered.

_____ Met with applicant and provided building permit application

_____ Collected application fee

_____ Reviewed application including site plan.

- Checked to see if the request is a permitted use in zoning district.
- Does applicant need a variance, conditional use permit or rezoning?

_____ If request is a permitted use and no variance is needed, issue the permit.

_____ If request is not permitted due to the need of a rezoning, conditional use permit or variance, begin the appropriate proceedings.

CONDITIONAL

USE

PERMIT

APPLICANT
HOW DO I OBTAIN A CONDITIONAL USE PERMIT?

- ⇒ Meet with the Administrative Official (Director of Equalization) and ask for a Conditional Use Permit application.
- ⇒ Complete the application, provide signatures (if necessary) and pay the appropriate fee.
- ⇒ The Administrative Official will review your application and will forward the application to the Board of Adjustment.
- ⇒ The Administrative Official will set a date for a public hearing of the Board of Adjustment to hear your request.
- ⇒ Ten (10) days before the public hearing the Administrative publish a notice, at your expense, in the official newspaper.
- ⇒ Seven (7) days before the public hearing the Administrative official will mail you and all adjacent landowners, excluding streets and alleys, at your expense, a notice of your application being placed upon the agenda of the Board of Adjustment Meeting.
- ⇒ The public hearing is held.
- ⇒ The Board of Adjustment will hear your request and any comments pro or con from the public.
- ⇒ The Board of Adjustment will either approve or deny your request. The Board will make written findings supporting its decision.
- ⇒ The Board of Adjustment may attach additional requirements to your Conditional Use permit.
- ⇒ For the Board of Adjustment to grant you a Conditional Use permit, a vote of two-thirds (2/3) of the total membership of the Board (4 votes) will be required for passage.
- ⇒ If your request is denied, you have the option of seeking settlement through the Courts.

**ADMINISTRATIVE OFFICIAL
CONDITIONAL USE PERMIT CHECK LIST**

**** INFORMATION PERTAINING TO CONDITIONAL USE PERMITS MAY BE FOUND IN SECTION 3.04.01 OF THE ZONING ORDINANCE STARTING ON PAGE 48.**

- _____ Met with applicant and provided Conditional Use Permit application.
- _____ Collected Conditional Use Permit application and appropriate fee.
- _____ Review application and forwarded application to the Board of Adjustment.
- _____ Set date for a public hearing of the Board of Adjustment.
- _____ Collect signatures if necessary
- _____ Publish notice in the newspaper ten (10) days prior to the public hearing. The applicant is to pay for the publication.
- _____ Mail applicant letter notifying him/her of upcoming Board of Adjustment Meeting seven (7) days prior to the public hearing.
- _____ Mail a letter to all adjacent landowners, excluding streets and alleys, notifying them of upcoming Board of Adjustment Meeting seven (7) days prior to the public hearing.
- _____ Hold public hearing.
- _____ For the Board of Adjustment to grant Conditional Use permit, a vote of two-thirds (2/3) of the total membership of the Board (4 votes) will be required for passage.
- _____ The Board of Adjustment may attach additional requirements to the Conditional Use permit. (This should be in the form of a letter of assurances – listing the additional requirements with the signatures of the Chair of the Board of Adjustment and the applicant).
- _____ If the Board of adjustment approves the request, the Board will make written findings supporting its decision.

CONDITIONAL USE PERMIT INFORMATION

WHAT IS A CONDITIONAL USE?

THE MOODY COUNTY IS DIVIDED INTO ZONING DISTRICTS WHICH REGULATE USES OF PROPERTY WITHIN THOSE DISTRICTS. THE USES ALLOWED IN EACH ZONING DISTRICT FALL INTO TWO CATEGORIES:

PERMITTED USES: ARE ALLOWED IN A DISTRICT BUT DO NOT REQUIRE A REVIEW BY AN ADVISORY BODY. PERMITTED USES ARE STILL REQUIRED TO OBTAIN A BUILDING PERMIT.

CONDITIONAL USES: ARE ALLOWED IN A DISTRICT ONLY AFTER REVIEW AND APPROVAL OF SUCH USE IN THE DISTRICT BY THE BOARD OF ADJUSTMENT. IF THE CONDITIONAL USE REQUIRES A BUILDING PERMIT, THE BUILDING PERMIT WILL NOT BE ISSUED UNTIL THE CONDITIONAL USE PERMIT HAS BEEN ISSUED.

ANY CONDITIONAL USE APPROVED BY THE BOARD OF ADJUSTMENT MUST CONFORM TO THE REQUIREMENTS FOR THE ZONING DISTRICT IN WHICH THE USE IS LOCATED. HOWEVER, THE BOARD OF ADJUSTMENT CAN ADD OTHER REQUIREMENTS OR STIPULATIONS THAT ARE APPROPRIATE OR NECESSARY. IN ALL CASES, THE IMPACT OF THE PROPOSED USE ON ADJACENT PROPERTIES WILL BE A MAJOR CONSIDERATION.

STEP #1 MAKING APPLICATION

AN APPLICATION FOR A CONDITIONAL USE PERMIT MAY BE OBTAINED FROM THE ADMINISTRATIVE OFFICIAL. THE APPLICATION WILL REQUIRE YOU TO PROVIDE THE LEGAL DESCRIPTION OF THE PROPERTY, THE ADJACENT LAND USES, THE SIZE OF THE PARCEL YOU WANT A CONDITIONAL USE FOR AND THE PURPOSE FOR THE CONDITIONAL USE. YOU WILL ALSO BE REQUIRED TO PAY A FILING FEE FOR PROCESSING YOUR PETITION.

ONCE YOU HAVE COMPLETED YOUR PETITION, PAID YOUR FILING FEE, AND PROVIDED A SITE PLAN IF REQUIRED, YOU WILL BE PLACED ON THE AGENDA OF THE NEXT BOARD OF ADJUSTMENT MEETING.

STEP #2 PUBLIC HEARING OF THE BOARD OF ADJUSTMENT

THE BOARD OF ADJUSTMENT IS COMPRISED OF THE BOARD OF COUNTY COMMISSIONERS. AT THE PUBLIC HEARING, THE BOARD OF ADJUSTMENT CHAIRPERSON WILL ANNOUNCE EACH AGENDA ITEM IN TURN AND THEN ASK IF THE PETITIONER IS PRESENT TO EXPLAIN THE REQUEST. THIS IS WHEN YOU WOULD STATE YOUR REASONS FOR THE CONDITIONAL USE PERMIT. THE CHAIRPERSON WILL ALSO ASK IF THERE ARE PERSONS PRESENT WHO WISH TO SPEAK AGAINST THE CONDITIONAL USE, AND THEY MAY DO SO AT THIS TIME.

AFTER THE BOARD OF ADJUSTMENT HAS HEARD FROM THE CITIZENS PRESENT AND DISCUSSED THE PETITION AMONG THEMSELVES, THEY WILL VOTE TO EITHER DENY OR APPROVE THE REQUEST. THE BOARD OF ADJUSTMENT BASES ITS DECISION ON A NUMBER OF THINGS:

- THE COMPREHENSIVE PLAN
- ADJACENT LAND USES
- THE STEPS TAKEN ON THE SITE TO OFFSET ANY NEGATIVE EFFECTS OF THE USE ON ADJACENT PROPERTY.
- AND THE EFFECTS SUCH USE WOULD HAVE ON TRAFFIC AND CIRCULATION IN THE AREA.

THE BOARD OF ADJUSTMENT WILL THEN VOTE TO ACCEPT THE REQUEST. A 2/3 VOTE OF THE ENTIRE BOARD OF ADJUSTMENT IS NEEDED FOR APPROVAL (4 VOTES). IF THE BOARD OF ADJUSTMENT SHOULD VOTE TO DENY YOUR REQUEST, YOU MAY SEEK RELIEF THROUGH LEGAL ACTION.

A CONDITIONAL USE PERMIT SHALL REMAIN VALID ONLY AS LONG AS THE ORIGINAL APPLICANT COMPLIES WITH ANY TERMS OR CONDITIONS OF THE PERMIT.

SPECIFIC CONDITIONAL USE REQUIREMENTS MAY BE FOUND IN THE ZONING ORDINANCE OF THE MOODY COUNTY ARTICLE III CHAPTER 3.04.

Note: This notice must be published in the official newspaper ten (10) days prior to the hearing

**MOODY COUNTY
NOTICE OF PUBLIC HEARING BY THE BOARD OF ADJUSTMENT
ON A PROPOSED CONDITIONAL USE PERMIT**

Notice is hereby given that a Public Hearing will be held on (date) at (time) in the County Courthouse to consider in full or in part the following proposed Conditional Use permit:

1. Permit No. ____ by (applicant) for a Conditional Use permit. The request, if granted, would permit the applicant to use the following property (legal description and street address) in the following manner: (State the Conditional Use request i.e. Type A CAFO in the "A" Zone).

All persons interested therein may appear and be heard before the Board of Adjustment at said hearing or may file written comments with the Auditor (Address) prior to said hearing.

Note: This notice must be sent seven (7) days prior to the hearing

LETTER NOTIFYING APPLICANT OF CONDITIONAL USE PERMIT HEARING

To _____(applicant)

Your application, under the Zoning Ordinance, in re premises (legal description of property), has been placed upon the Board of Adjustment agenda. A hearing will be held on (date) at (time) in the County Courthouse. You must be present, either in person or by agent or attorney.

Respectfully

Chairperson Board of Adjustment

Note: This notice must be sent seven (7) days prior to the hearing

LETTER NOTIFYING ADJACENT LANDOWNERS OF CONDITIONAL USE PERMIT HEARING

To _____

An application has been submitted to the Moody County's Board of Adjustment for a Conditional Use permit by (applicant). The Conditional Use request is for _____. Since your property is adjacent to the applicant, you are being notified of a public hearing where you will have the opportunity to comment on the proposed Conditional Use permit. The public hearing will be held on (date) at (time) in the County Courthouse.

Respectfully

Chairperson Board of Adjustment

VARIANCE

VARIANCE INFORMATION

WHAT IS A VARIANCE?

A VARIANCE IS A RELAXATION OF THE TERMS OF THE ZONING ORDINANCE WHERE SUCH VARIANCE WILL NOT BE CONTRARY TO THE PUBLIC INTEREST AND WHERE, OWING TO CONDITIONS PECULIAR TO THE PROPERTY AND NOT THE RESULT OF THE ACTIONS OF THE APPLICANT, A LITERAL ENFORCEMENT OF THE ORDINANCE WOULD RESULT IN UNNECESSARY AND UNDUE HARDSHIP. AS USED IN THIS ORDINANCE, A VARIANCE IS AUTHORIZED ONLY FOR HEIGHT, AREA, AND SIZE OF STRUCTURE OR SIZE OF YARDS AND OPEN SPACES; ESTABLISHMENT OR EXPANSION OF A USE OTHERWISE PROHIBITED SHALL NOT BE ALLOWED BY VARIANCE, NOR SHALL A VARIANCE BE GRANTED BECAUSE OF THE PRESENCE OF NON-CONFORMITIES IN THE ZONING DISTRICT OR USES IN AN ADJOINING ZONING DISTRICT.

STEP #1 MAKING APPLICATION

AN APPLICATION FOR A VARIANCE MAY BE OBTAINED FROM THE ADMINISTRATIVE OFFICIAL. THE APPLICATION WILL REQUIRE YOU TO PROVIDE THE LEGAL DESCRIPTION OF THE PROPERTY, A BRIEF STATEMENT OF THE VARIANCE DESIRED, AND A STATEMENT OF THE HARDSHIP REQUIRING RELIEF. YOU WILL ALSO BE REQUIRED TO PAY A FILING FEE FOR PROCESSING YOUR PETITION

ONCE YOU HAVE COMPLETED YOUR PETITION, PAID YOUR FILING FEE, AND PROVIDED A SITE PLAN, YOU WILL BE PLACED ON THE AGENDA OF THE NEXT BOARD OF ADJUSTMENT MEETING.

STEP #2 PUBLIC HEARING OF THE BOARD OF ADJUSTMENT

THE BOARD OF ADJUSTMENT IS COMPRISED OF THE BOARD OF COUNTY COMMISSIONERS. AT THE PUBLIC HEARING, THE BOARD OF ADJUSTMENT CHAIRPERSON WILL ANNOUNCE EACH AGENDA ITEM IN TURN AND THEN ASK IF THE PETITIONER IS PRESENT TO EXPLAIN THE REQUEST. THIS IS WHEN YOU WOULD STATE YOUR REASONS FOR THE VARIANCE. THE CHAIRPERSON WILL ALSO ASK IF THERE ARE PEOPLE PRESENT WHOM WISH TO

SPEAK AGAINST THE VARIANCE, AND THEY MAY DO SO AT THIS TIME.

AFTER THE BOARD OF ADJUSTMENT HAS HEARD FROM THE CITIZENS PRESENT AND DISCUSSED THE PETITION AMONG THEMSELVES, THEY WILL VOTE TO EITHER DENY OR APPROVE THE REQUEST. THE BOARD OF ADJUSTMENT BASES ITS DECISION ON A NUMBER OF THINGS:

- WHETHER OR NOT THE SPECIAL CONDITIONS AND CIRCUMSTANCES THAT EXIST ARE PECULIAR TO THE LAND, STRUCTURE, OR BUILDING INVOLVED AND WHICH ARE NOT APPLICABLE TO OTHER LAND STRUCTURES, OR BUILDINGS ON THE SAME DISTRICT.
- DOES THE LITERAL INTERPRETATION OF THE ORDINANCE DEPRIVE THE APPLICANT OF RIGHTS COMMONLY ENJOYED BY OTHER PROPERTIES IN THE SAME DISTRICT UNDER THE TERMS OF THIS ORDINANCE?
- THAT SPECIAL CONDITIONS AND CIRCUMSTANCES DO NOT RESULT FROM THE ACTIONS OF THE APPLICANT.
- AND THAT THE GRANTING OF THE VARIANCE WILL NOT CONFER ON THE APPLICANT ANY SPECIAL PRIVILEGE.

THE BOARD OF ADJUSTMENT WILL THEN VOTE TO ACCEPT THE REQUEST. A 2/3 VOTE OF THE ENTIRE BOARD OF ADJUSTMENT (4 VOTES) IS REQUIRED FOR APPROVAL. IF THE BOARD OF ADJUSTMENT SHOULD VOTE TO DENY YOUR REQUEST, YOU MAY SEEK RELIEF THROUGH LEGAL ACTION.

SPECIFIC VARIANCE REQUIREMENTS MAY BE FOUND IN THE ZONING ORDINANCE OF THE MOODY COUNTY ARTICLE III CHAPTER 3.04.

Note: This notice must be published in the official newspaper and posted at the County Courthouse and at on the property requesting the variance (ten) (10) days prior to the hearing

**MOODY COUNTY
NOTICE OF PUBLIC HEARING BY THE BOARD OF ADJUSTMENT
ON A PROPOSED VARIANCE**

Notice is hereby given that a Public Hearing will be held on (date) at (time) in the County Courthouse to consider in full or in part the following proposed variance:

1. Permit No. ____ by (applicant) for a variance of (what section of the Zoning Ordinance). The request, if granted, would permit the applicant to use the following property (legal description and street address) in the following manner: (State the variance request).

All persons interested therein may appear and be heard before the Board of Adjustment at said hearing or may file written comments with the Auditor (Address) prior to said hearing.

Note: This notice must be sent seven (7) days prior to the hearing

LETTER NOTIFYING APPLICANT OF VARIANCE HEARING

To _____(applicant)

Your application, under the Zoning Ordinance, in re premises (legal description of property), has been placed upon the Board of Adjustment agenda. A hearing will be held on (date) at (time) in the County Courthouse. You must be present, either in person or by agent or attorney.

Respectfully

Chairperson Board of Adjustment

Note: This notice must be sent seven (7) days prior to the hearing

LETTER NOTIFYING ADJACENT LANDOWNERS OF VARIANCE HEARING

To _____

An application has been submitted to the Moody County's Board of Adjustment for a variance by (applicant). The Variance request is for _____. Since your property is adjacent to the applicant, you are being notified of a public hearing where you will have the opportunity to comment on the proposed Conditional Use permit. The public hearing will be held on (date) at (time) in the County Courthouse.

Respectfully

Chairperson Board of Adjustment

APPLICANT
HOW DO I OBTAIN A VARIANCE?

- ⇒ Meet with the Administrative Official (Director of Equalization) and ask for a variance application.
- ⇒ Complete the application and pay the appropriate fee.
- ⇒ The Administrative Official will review your application and will forward the application to the Board of Adjustment.
- ⇒ The Administrative Official will set a date for a public hearing of the Board of Adjustment to hear your request.
- ⇒ Ten (10) days before the public hearing the Administrative official will publish a notice, at your expense, in the official newspaper.
- ⇒ Seven (7) days before the public hearing the Administrative official will mail you and all adjacent landowners, excluding streets and alleys, a notice, at your expense, stating that your application request is being placed upon the agenda of the upcoming Board of Adjustment Meeting.
- ⇒ The public hearing is held.
- ⇒ The Board of Adjustment will hear your request and any comments pro or con from the public.
- ⇒ The Board of Adjustment will either approve or deny your request. The Board will make written findings supporting its decision.
- ⇒ For the Board of Adjustment to grant you a variance, a vote of two-thirds (2/3) of the total membership of the Board (4 votes) will be required for passage.
- ⇒ If your request is denied, you have the option of seeking settlement through the Courts.

**ADMINISTRATIVE OFFICIAL
VARIANCE CHECK LIST**

**** INFORMATION PERTAINING TO VARIANCES MAY BE FOUND IN SECTION 3.04.02 OF THE ZONING ORDINANCE STARTING ON PAGE 50.**

- _____ Met with applicant and provided variance application.
- _____ Collected variance application and appropriate fee.
- _____ Reviewed application and forwarded it to the Board of Adjustment.
- _____ Set date for a public hearing of the Board of Adjustment.
- _____ Publish notice in the newspaper ten (10) days prior to the public hearing. The applicant is to pay for the publication.
- _____ Mail applicant letter notifying him/her of upcoming Board of Adjustment meeting seven (7) days prior to the public hearing
- _____ Mail a letter to all adjacent landowners, excluding streets and alleys, notifying them of upcoming Board of Adjustment meeting seven (7) days prior to the public hearing.
- _____ Hold public hearing.
- _____ For the Board of Adjustment to grant a variance, a vote of two-thirds (2/3) of the total membership of the Board (4 votes) will be required for passage.
- _____ If the Board of adjustment approves the request, the Board will make written findings supporting its decision. The board should grant a variance only when the applicant meets the requirements of 3.04.02.5.a. located on page 50.

REZONING

APPLICANT
HOW DO I REZONE PROPERTY?

- ⇒ Meet with the Administrative Official (Director of Equalization) and ask for a rezoning application.
- ⇒ Complete the application and pay the appropriate fee.
- ⇒ The Administrative Official will review your application and will forward the application to the Planning and Zoning Commission/Board of County Commissioners.
- ⇒ The Administrative Official will set a date for a public hearing of the Planning and Zoning Commission and Board of County Commissioners to hear your request.
- ⇒ Ten (10) days before the public hearing the Administrative official publish a notice, at your expense, in the official newspaper.
- ⇒ Seven days before the public hearing the Administrative Official will mail a notice, by Certified or Registered Mail at your expense, to all landowners within 250 feet of the proposed rezoning.
- ⇒ Seven days before the public hearing the Administrative official will mail you a notice stating that your application request is being placed upon the agenda of the Planning and Zoning Commission and Board of County Commissioners joint public hearing.
- ⇒ The public hearing is held.
- ⇒ The Planning and Zoning Commission will either recommend or not recommend approval of the zoning amendment to the Board of County Commissioners by a simple majority vote.
- ⇒ The Board of County Commissioners will have the first reading of the zoning amendment and schedule a date for the second reading.
- ⇒ The Administrative Official will publish the notice for the second reading of the ordinance amendment, at your expense, seven days prior to the second reading.
- ⇒ The Board of County Commissioners will have the second reading and may pass the ordinance amendment by simple majority.
- ⇒ The Administrative Official will publish the notification of adoption. The ordinance will become effective twenty days after final publication unless the referendum or right to protest is invoked. The referendum is invoked if five percent of the registered voters submit a petition before the twenty-day waiting period expires. The right to protest is invoked if forty percent of the landowners within the proposed district and within 250 feet submit a petition before the twenty-day waiting period expires. If the protest is invoked, the amendment does not become effective unless the two-thirds of the Board of County Commissioners approves the amendment.
- ⇒ A building permit may be issued only twenty days after the second publication.

**ADMINISTRATIVE OFFICIAL
ZONING ORDINANCE AMENDMENT OR CHANGE IN ZONING DISTRICT
BOUNDARY CHECK LIST**

**** INFORMATION PERTAINING TO AMENDING THE ZONING ORDINANCE MAY BE FOUND IN SECTION 3.04.03 OF THE ZONING ORDINANCE STARTING ON PAGE 51.**

- ___ Met with applicant and provided change in zoning classification application.
- ___ Collected application and appropriate fee.
- ___ Review application forward it to the Planning and Zoning Commission/Board of County Commissioners.
- ___ Set date for a public hearing of the Planning and Zoning Commission and Board of County Commissioners.
- ___ Publish notice in the newspaper ten (10) days prior to the public hearing. The applicant is to pay for the publication.
- ___ If the proposed amendment will change boundaries of a zoning district, contact all owners of property within 250 feet of the proposed change by Registered or Certified Mail seven (7) days prior to the public hearing. The applicant is to pay for the mailing cost.
- ___ Mail applicant letter notifying him/her of upcoming Planning and Zoning Commission and Board of County Commissioners meeting seven (7) days prior to the public hearing.
- ___ Hold public hearing.
- ___ The Planning and Zoning Commission will either recommend or not recommend approval of the zoning amendment to the Board of County Commissioners by a simple majority vote.
- ___ The Board of County Commissioners will have the first reading of the zoning amendment and schedule a date for the second reading.
- ___ Publish the notice for the second reading of the ordinance amendment seven days prior to the second reading. The applicant is to pay for the publishing costs.
- ___ The Board of County Commissioners will have the second reading and may pass the ordinance amendment by simple majority.
- ___ Publish the notification of adoption once, if the amendment is published in its entirety. If the amendment is not published in its entirety, you may publish a notice of adoption once a week for two weeks. The ordinance will become effective twenty days after the final publication unless the referendum or right to protest is invoked. The referendum is invoked if five percent of the registered voters submit a petition before the twenty-day waiting period expires. The right to protest is invoked if forty percent of the landowners within the proposed district and within 250 feet submit a petition before the twenty-day waiting period expires. If the protest is invoked, the amendment does not become effective unless the two-thirds of the Board of County Commissioners approves the amendment.
- ___ Place notation of the rezoning on the Official Zoning Map (if required).
- ___ Do not Issue building permit until twenty days after the second publication or the notice of adoption.

REZONING INFORMATION

WHAT IS ZONING?

THE MOODY COUNTY HAS BEEN DIVIDED UP INTO DIFFERENT RESIDENTIAL, COMMERCIAL AND INDUSTRIAL LAND USE DISTRICTS OR ZONES. WITHIN THESE ZONES ONLY CERTAIN USES ARE PERMITTED. BY HAVING THESE ZONES, PROPERTY OWNERS CAN BE ASSURED THAT ONLY COMPATIBLE USES WILL LOCATE NEXT TO THEIR PROPERTY.

WHAT IS REZONING?

WHEN A PROPOSED LAND USE IS NOT PERMITTED UNDER THE EXISTING ZONING, YOU CAN PETITION THE BOARD OF COUNTY COMMISSIONERS TO CHANGE THE ZONING ORDINANCE OR ZONING CLASSIFICATION ON YOUR PROPERTY. THIS IS ACCOMPLISHED THROUGH THE SERIES OF STEPS OUTLINED BELOW.

STEP #1 MAKING APPLICATION

PETITIONS FOR A ZONING CHANGE MUST BE OBTAINED FROM THE ADMINISTRATIVE OFFICIAL. THE PETITION WILL ASK YOU FOR THE LEGAL DESCRIPTION OF THE PROPERTY YOU WANT TO REZONE, THE EXISTING ZONING CLASSIFICATION, AND THE PURPOSE FOR REZONING. THERE WILL BE A FEE CHARGED FOR THE PROCESSING OF YOUR PETITION. ONCE YOU HAVE PAID THIS FEE AND COMPLETED THE PETITION, YOU WILL BE PUT ON THE AGENDA FOR THE NEXT PLANNING AND ZONING COMMISSION MEETING.

STEP #2 JOINT PUBLIC HEARING OF THE PLANNING AND ZONING COMMISSION AND BOARD OF COUNTY COMMISSIONERS

THE PLANNING AND ZONING COMMISSION IS MADE UP OF THE BOARD OF COUNTY COMMISSIONERS. THEY MAKE RECOMMENDATIONS TO THE BOARD OF COUNTY COMMISSIONERS REGARDING LAND USE CHANGES (REZONINGS, AS WELL AS CONDITIONAL USES AND PLATS). AT THE PUBLIC HEARING, THE PLANNING AND ZONING COMMISSION CHAIRPERSON WILL ANNOUNCE EACH AGENDA ITEM IN TURN AND THEN ASK IF THE PETITIONER IS PRESENT TO EXPLAIN THE REQUEST. THIS IS WHEN YOU WOULD STATE YOUR REASONS FOR REZONING. THE

PERSONS PRESENT WHOM WISH TO SPEAK AGAINST THE REZONING, AND THEY MAY DO SO AT THIS TIME.

AFTER THE PLANNING AND ZONING COMMISSION HAS HEARD FROM THE CITIZENS PRESENT AND DISCUSSED THE PETITION AMONG THEMSELVES, THEY WILL VOTE TO RECOMMEND TO THE BOARD OF COUNTY COMMISSIONERS TO EITHER DENY OR APPROVE THE REQUEST. THE PLANNING AND ZONING COMMISSION BASES ITS DECISION ON A NUMBER OF THINGS:

- THE COMPREHENSIVE PLAN
- ADJACENT LAND USES
- ADJACENT ZONING DISTRICTS
- THE NATURE OF THE PROPOSED LAND USE
- AND THE IMPACT OF SUCH A REZONING ON THE SURROUNDING NEIGHBORHOOD.

REMEMBER THAT THE PLANNING AND ZONING COMMISSION VOTE IS ONLY A RECOMMENDATION. THE BOARD OF COUNTY COMMISSIONERS CAN REVERSE THE DECISION OF PLANNING AND ZONING COMMISSION.

THE BOARD OF COUNTY COMMISSIONERS WILL THEN HAVE THE FIRST READING OF THE ORDINANCE AMENDMENT AND SET A SECOND READING DATE. AT THE SECOND READING THE BOARD OF COUNTY COMMISSIONERS MAY APPROVE THE PETITION BY A SIMPLE MAJORITY. A NOTICE OF ADOPTION WILL BE PUBLISHED ONCE AND THE AMENDMENT WILL BECOME EFFECTIVE TWENTY DAYS AFTER THE PUBLICATION.

THE FOLLOWING ARE THE COUNTY'S ZONING DISTRICTS:

- A AGRICULTURAL
- AP AQUIFER PROTECTION
- CI COMMERCIAL/INDUSTRIAL
- FP FLOOD PLAIN
- LP LAKE PARK
- NR NATURAL RESOURCES
- PR PLANNED RESIDENTIAL

Publish this notice ten (10) days before public hearing

NOTICE OF PUBLIC HEARING OF THE PLANNING AND ZONING COMMISSION AND BOARD OF COUNTY COMMISSIONERS ON PROPOSED CHANGE OF ORDINANCE NUMBER ____, THE ZONING ORDINANCE OF THE MOODY COUNTY

Notice is hereby given pursuant to SDCL 11-4 that on the (day) of (month), 20__, at _____ o'clock in the _____ in the Moody County, South Dakota, is the time and place when and where all persons interested therein may appear and be heard before the Planning and Zoning Commission and Board of County Commissioners concerning the proposed changes to the Zoning Ordinances of the Moody County. The Planning and Zoning Commission will submit to the Board of County Commissioners their recommendation as to whether or not the following ordinance should be passed by the Board of County Commissioners. If recommended for approval the Board of County Commissioners will then have the first reading of the proposed ordinance change.

Ordinance _____

AN ORDINANCE ENTITLED, an ordinance to amend Section ____ adopted by Ordinance _____, (date), as amended, of the Zoning Ordinance of the Moody County

Be it ordained by the Board of County Commissioners of the Moody County, South Dakota: that Section ____ adopted by Ordinance _____, (date), as amended, of the Zoning Ordinance of the Moody County be amended to classify the following property: (legal description) (or to change a certain section of the ordinance)

To (future zone) from (existing zone)

Passed and adopted this ____ day of _____ 20__.

Chairperson

Auditor

Any persons wishing to present testimony may appear at said hearing or may file written comments with the Auditor (Address) prior to said hearing

Publish this notice seven days before the second reading

**NOTICE OF SECOND READING
ON PROPOSED CHANGE OF ZONING ORDINANCE
OF THE MOODY COUNTY**

NOTICE IS HEREBY GIVEN, that the Board of County Commissioners of the Moody County, South Dakota, at a regular meeting held on the (day) of (month), 20__, held the required public hearing and placed upon its first reading Ordinance _____ and have scheduled _____, 20__, at ___ o'clock p.m. as the date and time of the second reading of said Ordinance

Ordinance _____

AN ORDINANCE ENTITLED, an ordinance to amend Section ___ adopted by Ordinance _____, (date), as amended, of the Zoning Ordinance of the Moody County.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF THE MOODY COUNTY, SOUTH DAKOTA: that Section ___ adopted by Ordinance _____, (date), as amended, of the Zoning Ordinance of the Moody County be amended to classify the following property: (legal description of property to be rezoned)

To (future zone) from (existing zone)

Passed and adopted this ___ day of _____ 20__.

Chairperson

Auditor

Any persons wishing to present testimony may appear at said hearing or may file written comments with the Auditor (Address) prior to said hearing

Dated this __ day of _____, 20__
Auditor, Moody County, South Dakota

**Mail this notice by certified or registered mail to all landowners within 250 feet,
excluding streets and alleys, seven (7) days prior to public hearing**

LETTER TO ADJACENT PROPERTY OWNERS

To_____:

Please take notice that an application has been made by _____ on behalf of himself for a hearing before the Planning and Zoning Commission and Board of County Commissioners for an amendment to the Zoning Ordinance for the Moody County. The application is for the rezoning of (legal description of property) from (existing zoning) to (proposed zoning). This application is now on the agenda for a public hearing which will be held on (Date) at _____ o'clock, in the (location). This notice is sent to you as an owner of property adjacent to the applicant's. You may appear, either in person or by agent or attorney, and present any comment on the proposed rezoning.

The applicant by order of the Board of County Commissioners sends this notice to you.

Respectfully,

(Applicant)

Mail this notice seven (7) days prior to public hearing

LETTER NOTIFYING APPLICANT OF REZONING HEARING

To _____ (applicant)

Your application, under the Zoning Ordinance, in re premises (legal description of property), has been placed upon the Planning and Zoning Commission and Board of County Commissioners agendas. A hearing will be had on (date) at (time) in (location). You must be present, either in person or by agent or attorney.

Respectfully

Publish this notice once if you are rezoning a piece of property or amending the zoning ordinance and publishing the ordinance amendment in its entirety. If you are not going to be publishing the amendment in its entirety, then you will need to publish the notice of adoption once a week for two weeks.

NOTICE OF ADOPTION

ORDINANCE # _____

AN ORDINANCE AMENDING SECTION__ ADOPTED BY ORDINANCE___, (DATE), AS AMENDED, OF THE ZONING ORDINANCE OF THE MOODY COUNTY

Notice is hereby given that Ordinance # _____, An Ordinance Amending Section__ Adopted By Ordinance ____, (Date), As Amended, Of The Zoning Ordinance Of The Moody County was duly adopted by the Board of County Commissioners on the (day) of (month), 20___, and will become effective on the (day) of (month), 20___.

Ordinance _____

AN ORDINANCE ENTITLED, an ordinance to amend Section ____ adopted by Ordinance _____, (date), as amended, of the Zoning Ordinance of the Moody County.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF THE MOODY COUNTY, SOUTH DAKOTA: that Section ____ adopted by Ordinance _____, (date), as amended, of the Zoning Ordinance of the Moody County be amended to classify the following property: (legal description of property to be rezoned)

To (future zone) from (existing zone)

Passed and adopted this ____ day of _____ 20__.

Chairperson

Auditor

This ordinance shall become effective 20 days after the last publication of this notice once a week for two successive weeks in the official newspaper, thereby repealing all ordinances or parts thereof in conflict herewith unless a referendum is timely involved prior thereto.

Dated this __ day of _____, 20__
Auditor, Moody County, South Dakota

Dated: _____, 20__
_____, 20__

APPLICATIONS AND WAIVERS

**BUILDING PERMIT
CONDITIONAL USE/VARIANCE
REZONING/ZONING AMENDMENT
WIRELESS TELECOMMUNICATION TOWER
WIND ENERGY SYSTEM (WES)
CONCENTRATED ANIMAL FEEDING OPERATION (CAFO)
MINING
AGRICULTURAL EASEMENT
SHELTERBELT WAIVER**

**MOODY COUNTY
CONDITIONAL USE/VARIANCE APPLICATION**

PERMIT NUMBER _____

APPLICANT (PRINT): _____ **PHONE:** _____

ADDRESS: _____

OWNER (PRINT): _____ **PHONE:** _____
IF DIFFERENT THAN APPLICANT

ADDRESS: _____

I/WE, THE UNDERSIGNED, DO HEREBY PETITION THE BOARD OF ADJUSTMENT OF MOODY COUNTY SOUTH DAKOTA, TO ISSUE A CONDITIONAL USE PERMIT OR VARIANCE FOR THE PROPERTY DESCRIBED AS:

(CIRCLE APPROPRIATE)

LEGAL DESCRIPTION: _____

GENERAL AREA OR STREET ADDRESS: _____

EXISTING LAND USE: _____ **EXISTING ZONING:** _____

SIZE OF PARCEL: ACRES _____ **LOT DIMENSIONS:** WIDTH _____ LENGTH _____ DEPTH _____

SURROUNDING LAND USE

NORTH:	_____
SOUTH:	_____
EAST:	_____
WEST:	_____

PLEASE DESCRIBE WHAT YOU PROPOSE TO DO AND WHY YOU ARE SEEKING A CONDITIONAL USE PERMIT
(attach a separate sheet of paper if necessary)

IF YOUR ARE SEEKING A VARIANCE PLEASE PROVIDE A BRIEF STATEMENT OF THE VARIANCE DESIRED AND PLEASE STATE THE HARDSHIP REQUIRING RELIEF. (Proof of hardship is on the applicant - Hardship examples are odd size or shape of the lot, unusual topography, etc. attach a separate sheet of paper if necessary)

SIGNATURE OF APPLICANT _____

SIGNATURE OF OWNER (IF DIFFERENT THAN APPLICANT) _____

NOTE: A SKETCH OF PROPOSED PROPERTY SHALL ACCOMPANY THIS APPLICATION, SHOWING THE FOLLOWING:

- | | |
|--|--|
| 1. NORTH DIRECTION | 5. LOCATION OF PROPOSED STRUCTURE ON LOT |
| 2. DIMENSIONS OF PROPOSED STRUCTURE | 6. DIMENSIONS OF FRONT AND SIDE SET BACKS |
| 3. STREET NAMES | 7. LOCATION OF ADJACENT EXISTING BUILDINGS |
| 4. OTHER INFORMATION AS MAY BE REQUESTED | |

THE BOARD OF ADJUSTMENT MAY REQUIRE THAT SUCH PLANS BE PREPARED BY A REGISTERED ENGINEER OR LAND SURVEYOR.

FOR OFFICIAL USE ONLY

DATE FILED WITH ADMINISTRATIVE OFFICIAL: _____

\$100.00 FEE PAID (NON-REFUNDABLE): _____ **YES** _____ **NO**

DATE OF HEARING: _____

ACTION BY BOARD OF ADJUSTMENT: _____

**MOODY COUNTY
WIRELESS COMMUNICATION TOWER APPLICATION
PERMIT NUMBER _____**

APPLICANT (PRINT): _____ **PHONE:** _____

ADDRESS: _____

LANDOWNER (PRINT): _____ **PHONE:** _____
IF DIFFERENT THAN APPLICANT

ADDRESS: _____

DEVELOPMENT SITE LEGAL DESCRIPTION: _____

DEVELOPMENT SITE STREET ADDRESS: _____

EXISTING ZONING DESIGNATION: _____

REQUIRED APPLICATION SUBMISSIONS:

- The names, addresses, and telephone numbers of all owners of other Towers or usable Antenna Support Structures within a one-half (½) mile radius of the proposed new Tower site, including County-owned property.
- A description of the design plan proposed by the Applicant. Applicant must identify its utilization of the most recent technological design, including microcell design, as part of the design plan. The Applicant must demonstrate the need for Towers and why design alternatives, such as the use of microcell, cannot be utilized to accomplish the provision of the Applicant's telecommunications services
- An affidavit attesting to the fact that the Applicant made diligent, but unsuccessful, efforts to install or co-locate the Applicant's Telecommunications Facilities on Towers or usable Antenna Support Structures owned by other Persons located within a one-half (½) mile radius of the proposed Tower site. In the event that one reason for the unsuccessful efforts to install or co-locate is that fees to be charged are not commercially reasonable, an explanation shall be provided why said charges are commercially unreasonable.
- Haul roads identified
- Written technical evidence from an Engineer(s) that the proposed Tower or Telecommunications Facilities cannot be installed or co-located on another person's Tower or usable Antenna Support Structures owned by other Persons located within one-half (½) mile radius of the proposed Tower site.
- Written, technical evidence from an Engineer(s) that the proposed structure meets the standards set forth in, "Structural Requirements," of this Ordinance.
- Written, technical evidence from a qualified Engineer(s) acceptable to the Fire Marshall and the building official that the proposed site of the Tower or Telecommunications Facilities does not pose a risk of explosion, fire, or other danger to life or property due to its proximity to volatile, flammable, explosive, or hazardous materials such as LP gas, propane, gasoline, natural gas, or corrosive or other dangerous chemicals.
- Map of easements.
- Copy of easement agreements with landowners.
- Map of occupied residential structures, businesses and public buildings on adjacent property.
- Map of sites for WES, access roads and utility lines.
- Location of other wireless communication towers within ½ mile of proposed site
- Project schedule.

ESTIMATED PROJECT CONSTRUCTION COST (including labor): \$ _____

I hereby certify that I have read and examined this application and know the information contained herein to be true and correct. All provisions of laws and ordinances governing this type of work will be complied with whether specified herein or not. I further understand and agree that the granting of a permit does not presume to give authority to violate, cancel or variance the provisions of the Moody County Zoning Ordinance or any other federal, state, or local law regulating construction or the performance of construction.

SIGNATURE OF CONTRACTOR DATE

SIGNATURE OF APPLICANT DATE

SIGNATURE OF OWNER DATE
(IF DIFFERENT THAN APPLICANT)

FOR OFFICIAL USE ONLY

DATE FILED WITH ADMINISTRATIVE OFFICIAL: _____

FEE PAID (NON-REFUNDABLE): _____ YES _____ NO

DATE OF HEARING: _____

ACTION BY BOARD OF ADJUSTMENT: _____

REASONS FOR DENYING PERMIT:

MOODY COUNTY
WIND ENERGY SYSTEM (WES) APPLICATION PERMIT NUMBER _____

APPLICANT (PRINT): _____ **PHONE:** _____

ADDRESS: _____

OWNER (PRINT): _____ **PHONE:** _____
IF DIFFERENT THAN APPLICANT

ADDRESS: _____

DEVELOPMENT SITE LEGAL DESCRIPTION: _____

DEVELOPMENT SITE STREET ADDRESS: _____

EXISTING ZONING DESIGNATION: _____

REQUIRED APPLICATION SUBMISSIONS:

- Haul roads identified
- Soil erosion and sediment plan
- Boundaries of the site proposed for WES and associated facilities on United States geological survey map or other map as appropriate.
- Map of easements for WES.
- Copy of easement agreements with landowners.
- Map of occupied residential structures, businesses and public buildings.
- Map of sites for WES, access roads and utility lines.
- Proof of utility right-of-way easement for access to transmission lines.
- Location of other WES in general area.
- Project schedule.
- Mitigation measures.

PLEASE DESCRIBE THE PROPOSED WORK: (be specific as to size of buildings, lots, construction materials, etc)

ESTIMATED PROJECT CONSTRUCTION COST (including labor): \$ _____

NOTE: A SITE AND AREA PLAN OF THE PROPOSED WES SHALL ACCOMPANY THIS APPLICATION, SHOWING THE FOLLOWING:

- | | |
|--|--|
| 1. NORTH DIRECTION | 5. DIMENSIONS OF FRONT AND SIDE SETBACKS |
| 2. DIMENSIONS OF PROPOSED STRUCTURE | 6. LOCATION OF ADJACENT EXISTING BUILDINGS |
| 3. STREET NAMES | 7. OTHER INFORMATION AS MAY BE REQUESTED |
| 4. LOCATION OF PROPOSED STRUCTURE ON LOT | |

I hereby certify that I have read and examined this application and know the information contained herein to be true and correct. All provisions of laws and ordinances governing this type of work will be complied with whether specified herein or not. I further understand and agree that the granting of a permit does not presume to give authority to violate, cancel or variance the provisions of the Moody County Zoning Ordinance or any other federal, state, or local law regulating construction or the performance of construction.

SIGNATURE OF CONTRACTOR DATE

SIGNATURE OF APPLICANT DATE

SIGNATURE OF OWNER DATE
(IF DIFFERENT THAN APPLICANT)

FOR OFFICIAL USE ONLY

DATE FILED WITH ADMINISTRATIVE OFFICIAL: _____

FEE PAID (NON-REFUNDABLE): _____ YES _____ NO

DATE OF HEARING: _____

ACTION BY BOARD OF ADJUSTMENT: _____

REASONS FOR DENYING PERMIT:

**MOODY COUNTY
CONCENTRATED ANIMAL FEEDING OPERATION (CAFO) APPLICATION
PERMIT NUMBER _____**

APPLICANT (PRINT): _____ **PHONE:** _____

ADDRESS: _____

OWNER (PRINT): _____ **PHONE:** _____
IF DIFFERENT THAN APPLICANT

ADDRESS: _____

DEVELOPMENT SITE LEGAL DESCRIPTION: _____

DEVELOPMENT SITE STREET ADDRESS: _____

EXISTING ZONING DESIGNATION: _____

PROPOSED CAFO CLASS SIZE AND ANIMAL TYPE: _____

REQUIRED APPLICATION SUBMISSIONS:

- Documentation of a South Dakota Department of Environment and Natural Resources approved nutrient management plan.
- Documentation of a South Dakota Department of Environment and Natural Resources approved manure management and operation plan.
- Management plan for fly and odor control.
- Map of occupied residential structures, businesses and public buildings within required setback area
- Information on ability to meet designated setback requirements including site plan to scale.
- Documentation of approved General Permit from South Dakota Department of Environment & Natural Resources.
- Notification of whomever maintains the access road (township, county and state).
- Notification of public water supply officials.
- Project schedule.

ESTIMATED PROJECT CONSTRUCTION COST (including labor): \$ _____

NOTE: A SITE AND AREA PLAN OF THE PROPOSED CAFO SHALL ACCOMPANY THIS APPLICATION, SHOWING THE FOLLOWING:

- | | |
|--|--|
| 1. NORTH DIRECTION | 5. DIMENSIONS OF FRONT AND SIDE SETBACKS |
| 2. DIMENSIONS OF PROPOSED STRUCTURE | 6. LOCATION OF ADJACENT EXISTING BUILDINGS |
| 3. STREET NAMES | 7. OTHER INFORMATION AS MAY BE REQUESTED |
| 4. LOCATION OF PROPOSED STRUCTURE ON LOT | |

I hereby certify that I have read and examined this application and know the information contained herein to be true and correct. All provisions of laws and ordinances governing this type of work will be complied with whether specified herein or not. I further understand and agree that the granting of a permit does not presume to give authority to violate, cancel or variance the provisions of the Moody County Zoning Ordinance or any other federal, state, or local law regulating construction or the performance of construction.

SIGNATURE OF CONTRACTOR DATE

SIGNATURE OF APPLICANT DATE

SIGNATURE OF OWNER DATE
(IF DIFFERENT THAN APPLICANT)

FOR OFFICIAL USE ONLY

DATE FILED WITH ADMINISTRATIVE OFFICIAL: _____

FEE PAID (NON-REFUNDABLE): _____ YES _____ NO

DATE OF HEARING: _____

ACTION BY BOARD OF ADJUSTMENT: _____

REASONS FOR DENYING PERMIT:

**MOODY COUNTY
MINING OPERATION APPLICATION
PERMIT NUMBER _____**

APPLICANT (PRINT): _____ PHONE: _____

ADDRESS: _____

OWNER (PRINT): _____ PHONE: _____
IF DIFFERENT THAN APPLICANT

ADDRESS: _____

DEVELOPMENT SITE LEGAL DESCRIPTION: _____

DEVELOPMENT SITE STREET ADDRESS: _____

EXISTING ZONING DESIGNATION: _____

REQUIRED APPLICATION SUBMISSIONS:

- Description of the mineral or minerals which are the subject of the mining or milling and the technical description of the mining/milling process.
- Maps showing the general area within which the mining or milling operation will be conducted.
- Site plan containing the following information:
 - o Present topography, soil types, and depth to groundwater.
 - o Location of existing water drainage, existing buildings, existing shelterbelts.
 - o Identification of roads leading to the site.
 - o Proposed changes at the site such as new shelterbelts, new buildings, changes in topography, new fence lines.
 - o Proposed monitoring wells, etc.
- A description of the major environmental impacts upon air quality, water quality and quantity, and land use modification presented by the proposed mining or milling.
- Description of the proposed plan to address the identified environmental impacts to include all measures to be taken to prevent soil erosion, water contamination, air contamination, disruption of the area's ecological balance and any other related hazard to public health and safety.
- Documentation of a South Dakota Department of Environment and Natural Resources approved mining permit.
- Reclamation Plan (According to Chapter 4.21, p. 67) and surety bond.
- Haul road agreement

ESTIMATED PROJECT CONSTRUCTION COST (including labor): \$ _____

NOTE: A SITE AND AREA PLAN OF THE PROPOSED MINING/MILLING OPERATION SHALL ACCOMPANY THIS APPLICATION, SHOWING THE FOLLOWING:

- | | |
|--|--|
| 1. NORTH DIRECTION | 5. DIMENSIONS OF FRONT AND SIDE SETBACKS |
| 2. DIMENSIONS OF PROPOSED STRUCTURE | 6. LOCATION OF ADJACENT EXISTING BUILDINGS |
| 3. STREET NAMES | 7. OTHER INFORMATION AS MAY BE REQUESTED |
| 4. LOCATION OF PROPOSED STRUCTURE ON LOT | |

I hereby certify that I have read and examined this application and know the information contained herein to be true and correct. All provisions of laws and ordinances governing this type of work will be complied with whether specified herein or not. I further understand and agree that the granting of a permit does not presume to give authority to violate, cancel or variance the provisions of the Moody County Zoning Ordinance or any other federal, state, or local law regulating construction or the performance of construction.

_____ SIGNATURE OF CONTRACTOR	_____ SIGNATURE OF APPLICANT	_____ SIGNATURE OF OWNER	_____ DATE
----------------------------------	---------------------------------	-----------------------------	---------------

FOR OFFICIAL USE ONLY

DATE FILED WITH ADMINISTRATIVE OFFICIAL: _____
FEE PAID (NON-REFUNDABLE): _____ YES _____ NO
DATE OF HEARING: _____
ACTION BY BOARD OF ADJUSTMENT: _____

REASONS FOR DENYING PERMIT:

AGRICULTURAL EASEMENT

The following easement is to be utilized as required for farm and non-farm residential development within the Agricultural, Lake Park and Planned Residential Districts.

1. Purpose. This easement is required in the Agricultural District.
2. Easement.

("Grantors") are the owners of real property described as follows:

In accordance with the conditions set forth in the decision of Moody County, dated _____ 20____, approving a permit for a dwelling on the above described property, and in consideration of such approval, Grantors grant to the owners of all property adjacent to the above described property, a perpetual nonexclusive easement as follows:

- a. The Grantors, their heirs, successors, and assigns acknowledge by the granting of this easement that the above described property is situated in an agricultural area and may be subjected to conditions resulting from commercial agricultural operations on adjacent lands. Such operations include the cultivation, harvesting, and storage of crops and livestock raising and the application of chemicals, operation of machinery, application of irrigation water, and other accepted and customary agricultural activities conducted in accordance with Federal and State laws. These activities ordinarily and necessarily produce noise, dust, smoke, and other conditions that may conflict with Grantors' use of Grantors' property for residential purposes. Grantors hereby waive all common law rights to object to normal and necessary agricultural management activities legally conducted on adjacent lands which may conflict with Grantors' use of Grantors' property for residential purposes, and Grantors hereby grant an easement to adjacent property owners for such activities.
- b. Nothing in this easement shall grant a right to adjacent property owners for ingress or egress upon or across the described property. Nothing in this easement shall prohibit or otherwise restrict the Grantors from enforcing or seeking enforcement of statutes or regulations of governmental agencies for activities conducted on adjacent properties.

This easement is appurtenant to all property adjacent to the above described property and shall bind to the heirs, successors and assigns of Grantors and shall endure for the benefit of the adjoining landowners, their heirs, successors, and assigns. The adjacent landowners, their heirs, successors, and assigns are hereby expressly granted the right of third party enforcement of this easement.

IN WITNESS WHEREOF, the Grantors have executed this easement on _____, 20_____.

Signature, Grantor

STATE OF SOUTH DAKOTA

SS:

COUNTY OF MOODY

This instrument was acknowledged before me on _____, 20____ by _____ (Grantors).

Notary Public

My Commission Expires: _____

**LETTER OF ACKNOWLEDGEMENT
WAIVER OF VARIANCE APPEAL FROM
SHELTERBACK SETBACK REQUIREMENTS**

The following letter of acknowledgement (waiver of variance appeal) is to be used when a building permit is requested upon or a plat is proposed for property which would not be able to meet the shelterback setback requirements of the County' zoning ordinance. The letter of acknowledgement shall be filed with the Register of Deeds.

1. Purpose. This letter of acknowledgement (waiver of variance appeal from shelterbelt setback requirements) is required in the Agricultural District.
2. Letter of Acknowledgement.

("Grantors") are the owners of real property described as follows:

In accordance with the conditions set forth in the decision of Moody County, dated February 25, 2003, approving a plat and/or a permit for a dwelling on the above-described property, and in consideration of such approval, Grantors acknowledge the following:

1. The Grantors, their heirs, successors, and assigns acknowledge that the above-described property may not contain a sufficient amount of land to meet the Moody County Zoning Ordinance shelterback requirements. Grantors their heirs, successors, and assigns hereby waive all common law rights to appeal for a variance from the shelterback setback requirements of the Moody County's Zoning Ordinance.

IN WITNESS WHEREOF, the Grantors have executed this easement on _____, 20____.

Signature, Grantor

STATE OF SOUTH DAKOTA

SS:

COUNTY OF MOODY

This instrument was acknowledged before me on _____, 20____ by _____ (Grantors).

Notary Public

My Commission Expires: _____

**MOODY COUNTY
HOME OCCUPATION APPLICATION**

PERMIT NUMBER _____

APPLICANT (PRINT): _____ PHONE: _____

ADDRESS: _____

I, THE UNDERSIGNED, DO HEREBY REQUEST A HOME OCCUPATION PERMIT TO BE LOCATED ON THE PROPERTY LEGALLY DESCRIBED AS:

PLEASE DESCRIBE THE PROPOSED HOME OCCUPATION:

WHAT WILL BE ITS EFFECT ON YOUR NEIGHBORHOOD:

HOURS OF OPERATION? _____

Please review the following requirements and mark your ability to comply. If you cannot comply with one or more of the requirements, explain the situation and why you cannot meet the requirements.

	Can Comply	Cannot Comply
1. No person other than members of the family residing on the premises shall be engaged in such occupation	_____	_____
2. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use of residential purposes by its occupants, and not more than 25 percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation.	_____	_____
3. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign, not to exceed two (2) square feet in area, non-illuminated.	_____	_____
4. No home occupation shall be conducted in any accessory building in connection with a non-farm dwelling. Accessory building used in connection with a farm dwelling shall be agricultural-related.	_____	_____
5. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in the neighborhood, and any need of parking generated by the conduct of such home occupation shall be provided off the street and other than in a required front yard.	_____	_____
6. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.	_____	_____
7. There will be no commodity sold upon the premises, except that which is prepared on the premises in connection with such occupation or activity.	_____	_____

SIGNATURE OF APPLICANT: _____

FOR OFFICIAL USE ONLY

DATE FILED WITH ADMINISTRATIVE OFFICIAL: _____

\$50.00 FEE PAID (NON-REFUNDABLE): _____ YES _____ NO