

CITY OF CENTERVILLE, SOUTH DAKOTA

CODE OF ORDINANCES

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CENTERVILLE, SOUTH DAKOTA

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TITLE I – GENERAL PROVISIONS

CHAPTER 10: GENERAL CODE CONSTRUCTION; GENERAL PENALTY

Section

10.01 – Title of code

10.02 – Rules of interpretation

10.03 – Captions

10.04 – Definitions

10.05 – Severability

10.06 – Reference to other sections

10.07 – Reference to offices

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10.09 – Powers to enact, amend or repeal ordinances and resolutions; generally

10.10 – Ordinances repealed

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10.12 – Repeal or modification of ordinance

10.13 – Ordinances which amend or supplement code

10.14 – Preservation of penalties, offenses, rights and liabilities

10.99 – General penalty

§ 10.01 – TITLE OF CODE.

All ordinances of a permanent and general nature, as revised, codified, rearranged, renumbered and consolidated into component codes, titles, chapters and sections, shall be known and designated as the “Centerville code”, for which designation “code of ordinances” or “codified ordinances” may be substituted. Code title, chapter and section headings do not constitute any part of the law as contained in the code.

§ 10.02 – RULES OF INTERPRETATION.

- (A) Generally. Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition and application shall govern the interpretation of this code as those governing the interpretation of state law.
- (B) Specific rules of interpretation. The construction of all ordinances shall be by the following rules, unless that construction is plainly repugnant to the intent of the legislative body or of the context of the same ordinance.
 - (1) Acts by assistants. When a statute, code provisions or ordinance requires an act to be done which, by law, an agent or deputy as well may do as the

principal, that requisition shall be satisfied by the performance of the act by an authorized agent or deputy.

- (2) Gender; singular and plural; tenses. Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.
- (3) General term. A general term following specific enumeration of terms is not to be limited to the class enumerated unless expressly so limited. General terms descriptive of an officer, act, proceeding or thing shall have reference to a municipality concerned or affected.

Statutory reference:

General terms descriptive of an officer, act, proceeding and the like, see SDCL § 9-1-1.

§ 10.03 – CAPTIONS.

Headings and captions used in this code other than the title, chapter and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

§ 10.04 – DEFINITIONS.

For the purpose of this code of ordinances, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

COMPUTATION OF TIME. The time in which any act provided by this code or other ordinance is to be done is computed by excluding the first day and including the last, unless the last is a holiday and then it also is excluded. Fractions of a day are to be disregarded in *COMPUTATIONS* which include more than one day, and involve no questions of priority.

COUNTY. Turner County, South Dakota.
(SDCL § 9-1-1)

ELECTOR(S) or *QUALIFIED ELECTOR(S).* Voter(s).
(SDCL § 9-1-1)

GOVERNING BODY. The City Council of the City of Centerville, South Dakota.
(SDCL § 9-1-1)

LOT. Includes *PARCEL* or *TRACT OF LAND.*
(SDCL § 9-1-1)

MONTH. A calendar month.

MUNICIPALITY or *MUNICIPAL CORPORATION.* All cities and towns organized under the laws of this state but shall not include any other political subdivisions.
(SDCL § 9-1-1)

ORDINANCE. A permanent legislative act within the limits of its powers of the governing body of a municipality.
(SDCL § 9-19-1)

OWNER. As used in this code relating to local improvements, the grantee in the last deed of conveyance of any lot or parcel of land recorded in the office of the Register of Deeds of Turner County, or his or her heirs or successors.
(SDCL § 9-1-1)

PUBLICATION. Any requirement for publication shall mean publication in the official newspaper of the municipality concerned or affected, if any; but if none, then, in a legal newspaper published in the city, if any; but if none, then, in any legal newspaper which serves the city, except as provided by SDCL § 9-13-13. Personal service either within or without the state upon the person affected thereby by delivery of a copy of a notice required to be published shall be equivalent to the required *PUBLICATION.*
(SDCL § 9-1-1)

RESOLUTION. Any determination, decision or direction of the governing body of a municipality of a temporary or special character for the purpose of initiating effecting, or carrying out its administrative duties and functions.
(SDCL § 9-19-1)

SDCL. South Dakota Codified Laws.

STREET. *STREET* includes *AVENUE.*
(SDCL § 9-1-1)

YEAR. A calendar year.

§ 10.05 – SEVERABILITY.

If any provision of this code as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

§ 10.06 – REFERENCE TO OTHER SECTIONS.

Whenever in one section reference is made to another section hereof, that reference shall extend and apply to the section referred to as subsequently amended, revised, recodified or renumbered unless the subject matter is changed or materially altered by the amendment or revision.

§ 10.07 – REFERENCES TO OFFICES.

Reference to a public office or officer shall be deemed to apply to any office, officer or employee of this local government exercising the powers, duties or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

§ 10.08 – ERRORS AND OMISSIONS.

- (A) If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express the intent, the spelling shall be corrected and the word or words supplied, omitted or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published.
- (B) No alteration shall be made or permitted if any question exists regarding the nature or extent of the error.

§ 10.09 – POWERS TO ENACT, AMEND OR REPEAL ORDINANCES AND RESOLUTIONS; GENERALLY.

Every municipality may enact, make, amend, revise or repeal all the ordinances, resolutions and regulations as may be proper and necessary to carry into effect the powers granted thereto.

§ 10.10 – ORDINANCES REPEALED.

- (A) This code, from and after its effective date, shall contain all of the provisions of a general nature pertaining to the subjects herein enumerated and embraced.
- (B) All prior ordinances pertaining to the subjects treated by this code shall be deemed repealed from and after the effective date of this code.

§ 10.11 – ORDINANCES UNAFFECTED.

All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not embraced in this code shall remain in full force and effect unless herein repealed expressly or by necessary implication.

§ 10.12 – REPEAL OR MODIFICATION OF ORDINANCE.

- (A) No suit, proceedings, right, fine, forfeiture or penalty instituted, created, given, secured or accrued under any ordinance previous to its repeal shall in any way be affected, released or discharged, but may be prosecuted, enjoyed and recovered as fully as if the ordinance had continued in force unless it is otherwise expressly provided.
- (B) When any ordinance repealing a former ordinance, clause or provision shall be itself repealed, the repeal shall not be construed to revive the former ordinance, clause or provision, unless it is expressly provided.

§ 10.13 – ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.

- (A) If the legislative body shall desire to amend any existing chapter or section of this code, the chapter or section shall be specifically repealed and a new chapter or section, containing the desired amendment, substituted in its place.
- (B) Any ordinance which is proposed to add to the existing code a new chapter or section shall indicate, with reference to the arrangement of this code, the proper number of the chapter or section. In addition to this indication as may appear in the text of the proposed ordinance, a caption or title shall be shown in concise form above the ordinance.

§ 10.14 – PRESERVATION OF PENALTIES, OFFENSES, RIGHTS AND LIABILITIES.

All offenses committed under laws in force prior to the effective date of this code shall be prosecuted and remain punishable as provided by those laws. This code does not affect any rights or liabilities accrued, penalties incurred or proceedings begun prior to the effective date of this code. The liabilities, proceedings and rights are continued; punishments, penalties or forfeitures shall be enforced and imposed as if this code had not been enacted. In particular, any agreement granting permission to utilize highway right-of-ways, contracts entered into or franchises granted, the acceptance, establishment or vacation of any highway, and the election of corporate officers shall remain valid in all respects, as if this code had not been enacted.

§ 10.99 – GENERAL PENALTY.

Municipalities are authorized to provide for the punishment of each violation of an ordinance, resolution or regulation with a fine not to exceed \$500 or by imprisonment not exceeding 30 days or by both the fine and imprisonment.

Statutory reference:

Maximum penalty, see SDCL §§ 9-19-3 and 22-6-2(2).

TITLE III – ADMINISTRATION

Chapter

30: BOUNDARIES, WARDS AND VOTING PRECINCTS

31: OFFICIALS AND EMPLOYEES

32: MAYOR

33: CITY COUNCIL

34: FIRE DEPARTMENT

35: POLICE DEPARTMENT

36: TAX AND FINANCE

37: MUNICIPAL LIQUOR STORE

38: PLANNING COMMISSION

39: SCHEDULE OF FINES

CHAPTER 30: BOUNDARIES, WARDS AND VOTING PRECINCTS

Section

30.01 – Boundaries

30.02 – Wards

30.03 – Voting precincts

§ 30.01 – BOUNDARIES.

The City shall include all territory embraced within the original town site of the city, together with all subsequent additions taken into the city since that time, less territory legally excluded therefrom, if any, according to the plats thereof as recorded in the office of the Register of Deeds of the county.

(1998 Code, § 2.0101)

§ 30.02 WARDS.

The city shall be divided into three wards and shall be designated respectively as the First, Second and Third Wards. The wards shall be described by stating the certain street or avenue designations or other landmarks that divide and border the wards. Any reference to street or avenue below shall mean an imaginary line running down the approximate middle of each street or avenue. The wards of the city are as set forth below and on the map thereof on file in the office of the Finance Officer. Any discrepancies shall be resolved by reference to the map rather than the physical descriptions set forth herein.

- (A) The First Ward shall include all of that part of the city east of Broadway Street/South Dakota Highway 19A and north of Vermillion Street. It shall also include all of that part of the city north of Main Street lying in between Broadway Street/South Dakota Highway 19A and Coleman Street.
- (B) The Second Ward shall include all of that part of the city east of Broadway Street/South Dakota Highway 19A and south of Main Street. It shall also include all of that part of the city east of Coleman Street and south of Vermillion Street.
- (C) The Third Ward shall include all of that part of the city west of Broadway Street/South Dakota Highway 19A.

(1998 Code, § 2.0201)

(Amended: Ordinance No. 339, 11-14-2011; Ordinance No. 400, 11-14-11)

§ 30.03 VOTING PRECINCTS.

Each ward of the city shall constitute an election precinct and the polling places in the precincts shall be as designated by the governing body by resolution from time to time, provided that the polling place for any ward may be established outside the ward if within one-fourth mile of the ward line.

(1998 Code, § 2.0301)

CHAPTER 31: OFFICIALS AND EMPLOYEES

Section

31.01 – Appointment of Officers

31.02 – Salaries

31.03 – Official Bond

§ 31.01 – APPOINTMENT OF OFFICERS.

At the first regular meeting in May of each year, there shall be appointed by the governing body a City Administrator/Finance Officer, City Attorney, Chief of Police and other officers as may be provided by ordinance, to hold office until the appointment and qualification of successors. All the appointments shall be made by the Mayor with the approval of the Council.

(1998 Code, § 1.0101)

§ 31.02 – SALARIES.

The salaries of all officers and employees shall be fixed by separate resolution by the governing body. All salaries shall be payable monthly.

(1998 Code, § 1.0102)

§ 31.03 – OFFICIAL BOND.

Appointive officers of the city shall furnish bonds to be approved by the governing body in a sum as may be determined by resolution conditioned for the faithful performance of their duties and to account and pay over and deliver all moneys or property coming into their hands by virtue of their office, excepting that the bond of the City Finance Officer shall be in the amount as provided by SDCL § 9-14-6.1.

(1998 Code, § 1.0103)

CHAPTER 32: MAYOR

Section

32.01 – Election

32.02 – Executive duties

32.03 – Appointment of officers

32.04 – Designation of officers; duties

32.05 – Formal occasions

§ 32.01 – ELECTION.

The Mayor shall be elected for a two-year term, and shall serve until his or her successor is elected and qualified as provided by statute.

(1998 Code, § 1.0201)

§ 32.02 – EXECUTIVE DUTIES.

The Mayor shall be the chief executive officer of the city, shall preside over the meetings of the City Council and shall perform duties as may be required of him or her by statute or ordinance. He or she shall have supervision over all of the officers and employees of the city, and shall have the power and authority to inspect all books and records pertaining to city affairs and kept by any officer or employee of the city, at any time.

(1998 Code, § 1.0202)

§ 32.03 – APPOINTMENT OF OFFICERS.

The Mayor shall appoint, by and with the advice and consent of the City Council, all officers of the city, whose election or appointment is not otherwise provided for. All vacancies occurring in an appointive or elected office shall be filled in the same manner.

(1998 Code, § 1.0203)

§ 32.04 – DESIGNATION OF OFFICERS; DUTIES.

Whenever there is a dispute as to the respective duties or powers of any appointed officer of the city, this dispute shall be settled by the Mayor after consultation with the City Attorney; and the Mayor shall have the power to delegate to any appointed officer any duty which is to be performed when no specific officer has been directed to perform that duty.

(1998 Code, § 1.0204)

§ 32.05 – FORMAL OCCASIONS.

The Mayor shall act for and on behalf of the city on formal occasions and receptions; but in his or her absence or inability to attend any function, the City Council may select any other city officer to so act.

(1998 Code, § 1.0205)

CHAPTER 33: CITY COUNCIL

Section

- 33.01 – Election**
- 33.02 – Legislative duties**
- 33.03 – Regular meetings**
- 33.04 – Schedule of regular meetings**
- 33.05 – Special meetings**
- 33.06 – President of the Council; Vice President**
- 33.07 – Supervision of departments**
- 33.08 – Special committees**
- 33.09 – Compensation; Mayor and Council**
- 33.10 – Order of business**
- 33.11 – Rescinded action**

33.12 – Ordinances and resolutions

33.13 – Suspension of rules

33.14 – Disturbing meetings

§ 32.01 – ELECTION.

- (A) The members of the City Council shall be elected and serve as Aldermen for two-year terms.
- (B) Two Aldermen shall be elected from each ward, and shall serve for staggered terms so that one Alderman from each ward is up for election each year.

(1998 Code, § 1.0301)

§ 33.02 – LEGISLATIVE DUTIES.

- (A) The City Council shall be the legislative division of the city government.
- (B) The City Council shall perform duties and have powers as are authorized by law.

(1998 Code, § 1.0302)

§ 33.03 – REGULAR MEETINGS.

The regular meetings of the City Council shall be held on the first and third Monday of each month at the hour of 7:30 p.m. Provided, that if the regular meeting falls on a legal holiday, the meeting shall take place on the next secular day at the same hour; or if the regular meeting falls on the first, second or third day of the month, the meeting shall take place on the next secular day at the same hour.

(1998 Code, § 1.0303)

§ 33.04 – SCHEDULE OF REGULAR MEETINGS.

An annual schedule of the regular meetings of the City Council shall be prepared at the beginning of each calendar year. This schedule shall state the dates and times of each meeting, and shall state the location of each meeting.

(1998 Code, § 1.0304)

§ 33.05 – SPECIAL MEETINGS.

Special meetings of the City Council may be called by the Mayor or three Aldermen, provided that a written notice of the meeting shall be given to each member of the Council at least 24 hours before the time set for the meetings.

(1998 Code, § 1.0305)

§ 33.06 – PRESIDENT OF THE COUNCIL; VICE PRESIDENT.

- (A) At the first regular meeting after the annual election in each year and after qualification of the newly elected Council members, the Council shall elect from among its own members a President and Vice President, who shall hold their respective offices for the municipal year.
- (B) The President of the Council, in the absence of the Mayor, shall be presiding officer of the Council, and during the absence of the Mayor from the city or his or her temporary disability, shall be acting Mayor and possess all the powers of the Mayor.
- (C) In the absence or disability of the Mayor and President of the Council, the Vice President shall perform the duties of the Mayor and President of the Council.

(1998 Code, § 1.0306)

§ 33.07 – SUPERVISION OF DEPARTMENTS.

The Mayor, with the approval of the Council, at the first meeting in May of each year, shall appoint committees of the Council to act in a supervisory capacity in the following areas: Public Transportation (Streets, Snow Removal), Public Safety (Police, Fire), Culture and Recreation (Parks, Recreation), Public Enterprise (Sewer, Water, Liquor), Library, Planning and Zoning, and Public Health (Ambulance Board of Health). Each committee so appointed shall have the supervision over the department to which it is named as supervisor, and shall from time to time and as requested by the Council, report as to the condition and matters in the department. The Mayor, at that time, shall also make appointments, subject to confirmation by the Council, to fill the expired terms on the Planning and Zoning Commission.

(1998 Code, § 1.0307)

§ 33.08 – SPECIAL COMMITTEES.

The Mayor shall appoint special committees as he or she may deem necessary or as may be directed by the City Council.

(1998 Code, § 1.0308)

§ 33.09 – COMPENSATION; MAYOR AND COUNCIL.

Compensation for the Mayor and members of the City Council shall be fixed by separate resolution by the governing body. All compensation shall be payable quarterly (as of January 1, April 1, July 1 and October 1).

(1998 Code, § 1.0309)

§ 33.10 – ORDER OF BUSINESS.

The order of business at meetings of the City Council shall be in the following manner, unless the same be temporarily suspended by consent of a majority of the members present:

- (A) Roll call of members;
- (B) Devotion; Pledge of Allegiance;
- (C) Approval of agenda;
- (D) Reading of minutes of preceding meeting or meetings;
- (E) Presentation of bills;
- (F) Petitions and communications;
- (G) Reports of officers;
- (H) Reports of departments;
- (I) Reports of committees;
- (J) Unfinished business; and
- (K) Miscellaneous or new business.

(1998 Code, § 1.0310)

§ 33.11 – RESCINDED ACTION.

No vote or action of the City Council shall be rescinded at any special meeting unless there be present at the special meeting as many members of the City Council as were present at the meeting when the vote or action was taken.

(1998 Code, § 1.0311)

§ 33.12 – ORDINANCES AND RESOLUTIONS.

Any ordinance submitted to the City Council shall be reduced to writing before being voted upon. At the request of a majority of the City Council, any resolution submitted to the City Council shall be reduced to writing before being voted upon.

(1998 Code, § 1.0312)

§ 33.13 – SUSPENSION OF RULES.

The rules of order, other than those prescribed by statute may be suspended at any time by consent of a majority of members present.

(1998 Code, § 1.0313)

§ 33.14 – DISTURBING MEETINGS.

It shall be unlawful to disturb or interrupt any regular or special meeting of the City Council, and any person violating any provision of this section shall be fined not less than \$10 and not more than \$25 for each offense.

(1998 Code, § 1.0314)

CHAPTER 34: FIRE DEPARTMENT

Section

- 34.01 – Establishment**
- 34.02 – Constitution and by-laws**
- 34.03 – Members**
- 34.04 – Terms of office**
- 34.05 – Duties of Chief**
- 34.06 – Assistant Chief**
- 34.07 – Driving over hose**
- 34.99 – Penalty**

§ 34.01 – ESTABLISHMENT.

A Volunteer Fire Department for the city is hereby established, consisting of a Chief, Assistant Chief, a Secretary Treasurer and other officers and members as the Fire Department itself may, from time to time, determine.

(1998 Code, § 1.0401)

§ 34.02 – CONSTITUTION AND BY-LAWS.

The Fire Department may adopt a constitution and by-laws and rules for its regulation and government, subordinate to the ordinances of the city, as it may deem best calculated to accomplish the object of its organization.

(1998 Code, § 1.0402)

§ 34.03 – MEMBERS.

The members of the Fire Department must be able bodied persons of good moral character, duly elected by a majority of the active members of the Fire Department.

(1998 Code, § 1.0403)

§ 34.04 – TERMS OF OFFICE.

The Chief, Assistant Chief and Secretary Treasurer shall be the head of the Fire Department, and shall hold their offices for a term of one year and until their successors shall be elected and qualified.

(1998 Code, § 1.0404)

§ 34.05 – DUTIES OF CHIEF.

- (A) The Chief of the Fire Department shall be responsible for the discipline, good order and proper conduct of the whole Department and shall have police authority and control over all persons who may be present at any fire in the city as well as over all firefighters.
- (B) He or she shall be responsible for the enforcement of all laws and regulations pertaining to the Fire Department and for the care and condition of the engines, hose, hook and ladders, and all other apparatus belonging thereto. He or she shall inquire into and investigate the cause of all fires which may occur in the city

immediately after the fire and make a report thereof to the City Council at its next regular meeting. He or she shall cooperate with the State Fire Marshal.

- (C) He or she shall report regularly each year to the City Council, approve all bills of the Department presented to the City Council for payment and shall from time to time recommend to the City Council measures for the good and efficiency of the department; and shall from time to time recommend to the City Council new equipment as may be needed.
- (D) He or she shall also prepare a financial statement and inventory with current value of December 31 of each year.

(1998 Code, § 1.0405)

§ 34.06 – ASSISTANT CHIEF.

In case of the absence or inability of the Chief of the Fire Department, the Assistant Chief shall have the same power and authority as the Chief of the Department.

(1998 Code, § 1.0406)

§ 34.07 – DRIVING OVER HOSE.

No automobile, or other vehicle shall be driven over unprotected hose of the Fire Department of the city when laid down on any street or alley to be used at any fire, alarm of fire or while at practice, without the consent of the Chief, or other person as may be in command.

(1998 Code, § 1.0407); Penalty, see § 34.99.

§ 34.99 – PENALTY.

Any person violating this section shall be subject to a penalty of not less than \$500 for each offense.

(1998 Code, § 1.0407)

CHAPTER 35: POLICE DEPARTMENT

Section

35.01 – Appointment

35.02 – Duties

§ 35.01 – APPOINTMENT.

The Police Department shall consist of a Chief of Police and other police officers as may be from time to time appointed by the Mayor and approved by the Council.

(1998 Code, § 1.0501)

§ 35.02 – DUTIES.

- (A) The Chief of Police and members of the Police Department shall perform duties as shall be prescribed by the governing body for the preservation of the peace, and other duties as may from time to time be prescribed by the City Council.
- (B) The Chief of Police shall see that the ordinances are strictly enforced. He or she shall report to the Mayor or the City Council any violations of the city ordinances, or anything occurring within the city, which in his or her opinion is detrimental to the health or safety or to the good of the city.
- (C) It shall be the duty of the Chief of Police to report immediately, at the alarm of fire, to the place where the fire may be and there report and remain for the preservation of the peace and the removal of idle and suspected persons and the preservation and protection of property at or in the vicinity of the fire.

(1998 Code, § 1.0502)

CHAPTER 36: TAX AND FINANCE

Section

- 36.01 – Financial obligations**
- 36.02 – Capital Replacement Reserve Account**
- 36.03 – Sales tax**
- 36.04 – Municipal gross receipts tax**
- 36.99 – Penalty**

§ 36.01 – FINANCIAL OBLIGATIONS.

- (A) Annual reports by boards. Each of the boards appointed and acting for the city in the administration of the city, shall make an annual report of its receipts, disbursements and activities to the Council as soon as practicable after the close of the fiscal year, which report shall be filed with the City Finance Officer.

(1998 Code, § 1.0601)

- (B) Contracts by members of the Council. No officer or member of the Council shall enter into any contract, make any purchase or create any indebtedness against the city in excess of \$100 without first having submitted the matter of incurring the indebtedness or making the contract to the Council or having received authority of the Council therefore.

(1998 Code, § 1.0602)

- (C) Sale of personal property. Whenever the city deems it for the best interest of the city, that personal property belonging to the city be sold, which property has been abandoned or is about to be abandoned for public use, the property shall be sold to the highest bidder upon terms as may be determined by the City Council. Notice of sale shall be given by publication once a week for two successive weeks in the official newspaper of the city, which notice shall contain a description of the personal property to be sold and the time and place where bids will be received by the Council for the sale; and the Council may at that time sell the personal property to the highest and best bidder therefor or may in its discretion reject all bids.

(1998 Code, § 1.0603)

- (D) Claims. All claims against the city shall be in writing and upon forms provided by the Finance Officer and in a form as required by the statutes of the state. Prior to passage or approval by the Council, claims shall bear the approval of the Council member or person in charge of the department for which the services or supplies are furnished.

(1998 Code, § 1.0604)

- (E) Funds. The City Finance Officer shall keep full, true and just accounts of all financial affairs of the city, and shall keep the accounts and funds in a form and in a manner from time to time as is required by the Division of Audits and Accounts of the state.

(1998 Code, § 1.0605)

- (F) Supplies. The City Finance Officer shall purchase all supplies, shall have charge thereof, and shall make all sales therefrom, provided no purchase involving an expenditure of more than \$50 shall be made without the consent of the Mayor or proper committee of the City Council being first obtained. Each order for material or supplies shall be made in writing and a duplicate thereof shall be filed with the City Finance Officer. All materials and supplies shall when received be checked

over by the officer or agent receiving the same, and a bill thereof, showing the name of the creditor and each article with the price thereof shall immediately be filed with the Finance Officer, and shall bear the endorsement of the officer or agent showing in what respect, if any, the material or articles failed to correspond with the material or article ordered.

(1998 Code, § 1.0606)

§ 36.02 – CAPITAL REPLACEMENT RESERVE ACCOUNT.

- (A) The city will set aside revenue as available to be used for general fixed assets, pursuant to SDCL § 9 21 31.
- (B) The city will establish a capital replacement reserve within the General Fund to be used for the purchase of general fixed assets. The balance of the reserve will not exceed 50% of the value of the general fixed assets.

(Amended: Ordinance No. 325, 09-14-98)

§ 36.03 – SALES TAX.

- (A) Purpose. The purpose of this section is to provide additional needed revenue for the city by imposing a municipal retail sales and use tax pursuant to the powers granted to the municipality by the state, by SDCL Chapter 10 52, entitled Uniform Municipal Non Ad Valorem Tax Law, and acts amendatory thereto.

(1998 Code, § 3.0101)

- (B) Effective dates and enactment of tax. From and after July 1, 1979, there is hereby imposed as a municipal retail occupational sales and service tax upon the privilege of engaging in business a tax measured by 2% on the gross receipts of all persons engaged in business within the jurisdiction of the city, who are subject to the State Retail Occupational Sales and Service Tax, SDCL Chapter 10 45 and acts amendatory thereto.

(1998 Code, § 3.0102)

- (C) Collection. The tax is levied pursuant to authorization granted by SDCL Chapter 10 52 and acts amendatory thereto, and shall be collected by the State Department of Revenue in accordance with the same rules and regulations applicable to the State Sales Tax and under additional rules and regulations as the Secretary of Revenue of the state shall lawfully prescribe.

(1998 Code, § 3.0103)

- (D) Use tax. In addition there is hereby imposed an excise tax on the privilege of use, storage and consumption within the jurisdiction of the municipality of tangible personal property or services purchased from and after July 1, 1979, at the same rate as the municipal sales and service tax upon all transactions or use, storage and consumption which are subject to the State Use Tax Act, SDCL Chapter 10 46, and acts amendatory thereto. The rate at which the use tax is imposed pursuant to this section shall be amended from time to time so as to remain consistent with the sales tax imposed pursuant to division (B) above.

(1998 Code, § 3.0105)

- (E) Interpretation. It is declared to be the intention of this section and the taxes levied hereunder that the same shall be interpreted and construed in the same manner as all sections of the State Retail Occupational Sales and Service Act, SDCL Chapter 10 45 and acts amendatory thereto and the State Use Tax, SDCL Chapter 10 46 and acts amendatory thereto, and that this shall be considered a similar tax except for the rate thereof to that tax.

(1998 Code, § 3.0106)

(Amended: Ordinance No. 353, 08-18-03; Ordinance No. 362, 08-23-05)

§ 36.04 – MUNICIPAL GROSS RECEIPTS TAX.

- (A) *Purpose.* The purpose of this section is to provide additional needed revenue for the city, by imposing a municipal gross receipts tax pursuant to the powers granted to the municipality by the state, by SDCL Chapter 10-52A, and acts amendatory thereto.
- (B) *Effective date and enactment of tax.* From and after January 1, 2005, there is hereby imposed a municipal gross receipts tax of 1% upon the gross receipts from the sale of leases or rentals of hotel, motel, campsites or other lodging accommodations within the municipality for periods of less than 28 consecutive days, the sale of alcoholic beverages as defined in SDCL Chapter 35-1-1, establishments where the public is invited to eat, dine or purchase and carry out prepared food for immediate consumption, and ticket sales or admissions to places of amusement, athletic and cultural events. The tax applies to the gross receipts of all persons engaged in business within the jurisdiction of the city, who are subject to the State Retail Occupational Sales and Service Tax, SDCL Chapter 10 45 and acts amendatory thereto.

- (C) *Collection.* The tax is levied pursuant to authorization granted by SDCL Chapter 10-52A and acts amendatory thereto, and shall be collected by the State Department of Revenue and Regulation in accordance with the same rules and regulations applicable to the State Sales Tax and under additional rules and regulations as the Secretary of Revenue of the state shall lawfully prescribe.
- (D) *Interpretation.* It is declared to be the intention of this section and the taxes levied hereunder that the same shall be interpreted and construed in the same manner as all sections of the State Retail Occupational Sales and Service Act, SDCL Chapter 10-45 and acts amendatory thereto, and that this shall be considered a similar tax except for the rate thereof to that tax.
- (E) *Use of revenue.* Any revenues received under this section may be used only for the purpose of land acquisition, architectural fees, construction costs, payment for civic center, auditoriums or athletic facility buildings, including the maintenance, staffing and operations of the facilities, and the promotion and advertising of the municipality, its facilities, attractions and activities.

(Amended: Ordinance No. 357, 08-02-04); Penalty, see § 36.99.

§ 36.05 – DISCRETIONARY TAX FORMULA.

- (A) *Authority.* Pursuant to SDCL 10-6-35.4, the City elects to adopt a discretionary reduced taxation formula for new structures and additions within the city limits of Centerville, South Dakota. In doing so, the City finds that Turner County Resolution #31, adopted September 10, 1996, only applies within the unincorporated areas of Turner County, including any unincorporated towns located therein.
- (B) *Industrial Structures.* Any new industrial structure or an addition to an existing structure which new structure or addition has a true and full value of thirty thousand dollars (\$30,000) or more, added to real property located within the city limits of Centerville, South Dakota, shall qualify to be assessed pursuant to the discretionary formula described in Section 36.05(F).
- (C) *Commercial Structures.* Any new commercial structure, except a commercial residential structure, or addition to an existing structure, which new structure or addition has a true and full value of thirty thousand dollars (\$30,000) or more, added to real property located within the city limits of Centerville, South Dakota, shall qualify to be assessed pursuant to the discretionary formula described in Section 36.05(F).
- (D) *Commercial Residential Structures.* Any new commercial residential structure, or addition to an existing structure, which new structure or addition has a true and

full value of thirty thousand dollars (\$30,000) or more, added to real property located within the city limits of Centerville, South Dakota, shall qualify to be assessed pursuant to the discretionary formula described in Section 36.05(F).

- (E) *Residential Structures.* Any new residential structure, or any addition to or renovation of an existing structure, located with a redevelopment neighborhood, which new structure, addition, or renovation has a true and full value of twenty-five thousand dollars (\$25,000) or more, added to real property shall qualify to be assessed pursuant to the discretionary formula described in Section 36.05(F).

In order to improve the quality of housing, all residential real property located within the city limits of Centerville, South Dakota, shall qualify as property located in a redevelopment neighborhood. The redevelopment neighborhood is being established because the area includes buildings or improvements which by reason of age, deterioration, obsolescence, and dilapidation injuriously affect the area to the detriment of public health, safety, morals, or welfare, and because the development of housing is being prevented by the predominance of defective or inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility, or usefulness, the deterioration of site improvements, and obsolete platting.

- (F) *Discretionary Formula.*

Any real property qualifying for the discretionary formula pursuant to this Chapter shall be assessed as follows:

First Year	20%
Second Year	40%
Third Year	60%
Fourth Year	80%
Fifth Year	100%

(Amended: Ordinance No. 448, 06-18-18)

§ 36.99 – PENALTY.

- (A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.
- (B) Any person failing or refusing to make reports or payments prescribed by § 36.03 and the rules and regulations relating to the ascertainment and collection of the

tax herein levied shall be guilty of a misdemeanor, and upon conviction shall be fined not more than \$500 or imprisoned in the municipal jail for 30 days or both the fine and imprisonment. In addition, all the collection remedies authorized by SDCL Chapter 10-45, and acts amendatory thereto, and SDCL Chapter 10-46, and acts amendatory thereto, are hereby authorized for the collection of these excise taxes by the Department of Revenue and Regulation.

(1998 Code, § 3.0107)

- (C) Any person failing or refusing to make reports or payments prescribed by ' 36.04 and the rules and regulations relating to the ascertainment and collection of the tax herein levied shall be guilty of a misdemeanor and upon conviction shall be fined not more than \$500 or imprisoned in the municipal jail for 30 days, or both the fine and imprisonment. In addition, all the collection remedies authorized by SDCL Chapter 10 45, and acts amendatory thereto, are hereby authorized for the collection of these excise taxes by the Department of Revenue.

(Amended: Ordinance No. 353, 08-18-03; Ordinance No. 357, 08-02-04)

CHAPTER 37: MUNICIPAL LIQUOR STORE
[Cross-Reference: Alcoholic Beverages, see Ch. 130]

Section

- 37.01 – Liquor license**
- 37.02 – Lease agreement**

§ 37.01 – LIQUOR LICENSE.

The sole off sale liquor license in the city shall be issued to and be the property of the city.

(1998 Code, § 1.0701)

§ 37.02 – LEASE AGREEMENT.

The city shall lease the premises of the liquor store to an operator manager. Terms of the lease shall be as determined by the City Council.

(1998 Code, § 1.0702)

CHAPTER 38: PLANNING COMMISSION

Section

- 38.01 – Creation**
- 38.02 – Membership and terms**
- 38.03 – Organization**
- 38.04 – Territorial extent of powers**
- 38.05 – Preparation of Comprehensive Plan**
- 38.06 – Zoning regulations**
- 38.07 – Subdivision plats and regulations**
- 38.08 – Powers and duties**

§ 38.01 – CREATION.

There is hereby created a City Planning Commission, which shall be referred to as the Planning Commission for the city.

(1998 Code, § 4.0101)

§ 38.02 – MEMBERSHIP AND TERMS.

- (A) The Planning Commission created under the terms of this chapter shall consist of not less than five members appointed by the Mayor, and shall be subject to approval by the City Council.
- (B) The term each member shall serve shall be for five years, except when the Planning Commission is first appointed, at least three members shall be appointed for three years, and the balance of the members shall be appointed for five years.
- (C) Thereafter, appointments of each member shall be for terms of five years so that there will be an overlapping of tenure. Administrative officials of the city may be appointed as ex officio members of the Planning Commission, however, all members of the Planning Commission shall serve without compensation.

(1998 Code, § 4.0102)

§ 38.03 – ORGANIZATION.

- (A) The Planning Commission shall elect a Chairperson from among its members for a term of one year with eligibility for re-election, and shall also elect a Vice Chairperson and Secretary in a manner prescribed by the rules of the members.

- (B) The Planning Commission shall hold at least one regular meeting each month and shall adopt rules for transaction of its business and keep a record of its resolutions, transactions, findings and determinations which shall be a public record.
- (C) The Planning Commission may appoint employees as it may deem necessary for its work, and may also contract with planners, engineers, architects and other consultants for services as it may require, provided, however, that the appointments and contracts shall be approved by the City Council.

(1998 Code, § 4.0103)

§ 38.04 – TERRITORIAL EXTENT OF POWERS.

The Planning Commission may exercise the Comprehensive Planning and zoning powers granted in SDCL Chapters 11-4 and 11-6, and acts amendatory thereof, not only within the corporate limits of the city, but also within an area of up to three miles of the corporate limits, as provided by law.

(1998 Code, § 4.0104)

§ 38.05 – PREPARATION OF COMPREHENSIVE PLAN.

- (A) For the purpose of making a Comprehensive Plan for the development of the city, the Planning Commission shall make or cause to be made careful and comprehensive studies of present conditions and future growth of the city, including any land outside the city which bears relation to the Comprehensive Plan.
- (B) The Comprehensive Plan shall be made with the general purpose of guiding and accomplishing a coordinated and harmonious development of the city and its environs.
- (C) After the Comprehensive Plan has been adopted according to law, no substantial amendment or modification thereof shall be made, without the proposed change first being referred to the Planning Commission for its recommendations.

(1998 Code, § 4.0105)

§ 38.06 – ZONING REGULATIONS.

- (A) It shall be a duty of the Planning Commission to recommend the boundaries of zoning districts and appropriate regulations to be enforced therein, in accordance with the Comprehensive Plan.

- (B) All applications and proposals for changes in or amendments to the zoning regulations shall first be submitted to the Planning Commission for its recommendations.
- (C) The City Council may provide for the Planning Commission to act as a Board of Adjustment to make special exceptions or grant variances to the terms of the zoning regulations.

(1998 Code, § 4.0106)

§ 38.07 – SUBDIVISION PLATS AND REGULATIONS.

- (A) All plans, plats or re plats of subdivisions or re subdivisions of land within the jurisdiction of this chapter shall first be submitted to the Planning Commission for its recommendation before approval by the City Council.
- (B) The Planning Commission shall prepare and recommend to the City Council regulations governing the subdivision of land within its jurisdiction. No amendments or changes thereto shall be made without recommendation by the Planning Commission.

(1998 Code, § 4.0107)

§ 38.08 – POWERS AND DUTIES.

The Planning Commission, its members and employees, shall have all powers as may be necessary to enable it to fulfill and perform its functions, and to carry out all, the purposes and powers provided in SDCL Chapters 11-4 and 11-6, and acts amendatory thereof.

(1998 Code, § 4.0108)

CHAPTER 39: SCHEDULE OF FINES

Section

39.01 – Schedule of fines and fees

§ 39.01 – SCHEDULE OF FINES AND FEES.

<i>Code Section</i>	<i>Offense Code</i>	<i>Title</i>	<i>Fine (Includes \$60 Court Costs)</i>
34.99		Driving over a hose	\$100
110.01		License required (business)	\$100
90.02		Pet violation: animals running at large (first violation)	\$135
90.02		Pet violation: animals running at large (second violation)	\$160
90.02		Pet violation: animals running at large (third violation)	\$185
90.06		Pet violation: tax or license	\$100
90.07		Pet violation: noisy animals (first violation)	\$135
90.07		Pet violation: noisy animals (second violation)	\$160
90.07		Pet violation: noisy animals (third violation)	\$185
90.13		Pet violation: vicious - bite	\$100
90.07		Pet violation: vaccinated	\$100
Ch. 92		Snow removal regulations	\$100
71.01		Driving left of center	\$100
71.02		Overtaking vehicle	\$100
71.03		Following too close	\$100
71.04		Driving on sidewalk	\$100

<i>Code Section</i>	<i>Offense Code</i>	<i>Title</i>	<i>Fine (Includes \$60 Court Costs)</i>
71.05		Lights and horn violation	\$100
71.05		Failed to display head lamps	\$100
71.06		Clearly legible license plates	\$100
71.07	Petty	Driving without possession of permit	\$25
71.08		Careless driving	\$100
71.09	Jail	Driving while intoxicated	\$500
71.10		Illegal U-turn	\$100
71.11		Failure to signal	\$100
71.13		Yield of right of way	\$100
71.14		Right-of-way at intersections	\$100
71.16		Racing	\$270
71.17		Loud mufflers	\$100
71.18		Failure to stop from private driveway	\$100
71.19		Stop sign violation	\$100
71.20		Exhibition driving	\$100
71.21		Sound disturbance (stereo)	\$100
71.01		Keeping to the right left turn to curb	\$100
72.01	Petty	Parking/standing violation	\$25
72.02	Petty	Parking diagonal	\$25

<i>Code Section</i>	<i>Offense Code</i>	<i>Title</i>	<i>Fine (Includes \$60 Court Costs)</i>
72.03	Petty	Double parking	\$25
72.04	Petty	Illegal parking of trucks	\$25
72.05	Petty	Loading and unloading trucks	\$25
72.06	Petty	Restricted parking	\$25
72.07	Petty	24-hour parking	\$25
72.12	Petty	N. Broadway parking	\$25
73.02		Recreational vehicle violations	\$100
75.01		Municipal speeding	State bond
75.03		Municipal speeding in school zone fine doubles as it is with construction zones	State bond fine doubled
76.02		Use of non-truck route	\$100
76.04		Truck route violation	\$100
131.01	Jail	Disorderly conduct	\$200
131.02		Disturbing the peace	\$100
131.04		Carrying a concealed weapon	\$200
131.05	Jail	Resisting an arrest	\$200
131.06		False impersonation of an officer	\$200
131.07		Indecency	\$100
131.08		Insulting person	\$100
131.09		Profanity	\$100

<i>Code Section</i>	<i>Offense Code</i>	<i>Title</i>	<i>Fine (Includes \$60 Court Costs)</i>
131.10		False emergency alarm	\$200
131.11	Jail	Carrying a revoked license	\$375

<i>CLASS II: MISCELLANEOUS VIOLATIONS</i>			
<i>Code Section</i>	<i>Offense Code</i>	<i>Title</i>	<i>Fine</i>
130.02		Package with broken seal	\$100
130.03		Misrepresentation of age	\$100
130.04	Jail	Giving alcohol to minor	\$500
130.05	Jail	Sale of alcohol to minor	\$500
133.02		Fireworks	\$100
134.03		Littering	\$170
134.05		Swimming pool use	\$200
135.01	Petty	Curfew	\$25
137.01		Abandoned or junk vehicles	\$100
93.015		Dangerous trees and shrubs	\$100
Ch. 91		Nuisances	\$170
91.01		Weeds and tall grass	\$100
Ch. 92		Snow removal	\$100
7.0106		Throwing snow on streets	\$100

<i>CLASS II: MISCELLANEOUS VIOLATIONS</i>			
<i>Code Section</i>	<i>Offense Code</i>	<i>Title</i>	<i>Fine</i>
50.01		Open burning	\$100
50.61		Removal of garbage	\$100
50.62		Removal of rubble and white goods	\$100
50.63		Garbage containment	\$100

(1998 Code, schedule of fines)

TITLE V – PUBLIC WORKS

Chapter

50: SOLID WASTE

51: WATER WORKS

52: MUNICIPAL SEWER

CHAPTER 50: SOLID WASTE

Section

50.01 – Open burning

50.02 – Deposit regulated

50.03 – Diseased trees

50.04 – Definition

50.05 – Leaving exposed

50.06 – Receptacles

50.07 – Wrapping garbage

50.08 – Receptacle; how made; capacity

50.09 – Where kept

50.10 – Ashes

50.11 – Hauled through streets

50.12 – Duty of person hauling garbage

50.13 – License for the collection and hauling of garbage

§ 50.01 – OPEN BURNING.

No person shall dispose of refuse or other combustible materials by open burning, or cause, suffer, allow or permit open burning of refuse or other combustible material, and no person shall conduct or cause or permit the conducting of a salvage operation by open burning.

- (A) Fires may be purposely set for the instruction and training of firefighting personnel, when authorized by the Mayor.
- (B) Fires may be purposely set for the elimination of a fire hazard which cannot be abated by any other means, when authorized by the Mayor.
- (C) Fires may be set for the removal of hazardous or dangerous material where there is no other practical or lawful method of disposal, when authorized by the Mayor.
- (D) Campfires and other fires which are used solely for recreational purposes, for

ceremonial occasions or for outdoor preparation of food are permitted.

(1998 Code, § 8.0101); Penalty, see § 50.99.

§ 50.02 – DEPOSIT REGULATED.

No person shall deposit or cause to be deposited any garbage, rubbish or other solid waste material of any kind in or upon any parks, streets, alley, gutter or in or upon any other private or public property within this city.

(1998 Code, § 8.0102); Penalty, see § 50.99.

§ 50.03 – DISEASED TREES.

Diseased or infected trees which have been removed from the site of their growth may be deposited upon public ground designated for such purpose by the Mayor and be there disposed of under the supervision of the Fire Chief and in compliance with the statutes and regulations of the state governing the burning or disposal of diseased and infected trees.

(1998 Code, § 8.0103)

§ 50.04 – DEFINITIONS.

The definitions of any terms used herein are in accordance with SDCL Chapter 34A-6, SDCL Chapter 34A-11 or any administrative rules and regulations adopted in accordance with the above named chapters or as defined by the city. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ASH. Residue from the combustion of solid waste or any solid or liquid materials.

BULKY ITEMS. Large items such as white goods or furniture.

COMMERCIAL SOLID WASTE. Solid waste generated by stores, offices, restaurants, warehouses, printing shops, service stations and other non-manufacturing, non-household sources.

FACILITY. All facilities and appurtenances connected with a “solid waste facility” or “solid waste disposal facility” which are acquired, purchased, constructed, reconstructed, equipped, improved, extended maintained or operated to facilitate the disposal or storage of solid waste.

GARBAGE. Solid and semi-solid putrescible animal and vegetable wastes resulting from the handling, preparing, cooking, storing, serving and consuming of food or of material intended for use as food, and all offal, excluding useful industrial by-products, from all public and private establishments and from all residences.

HOUSEHOLD WASTE. Solid waste derived from households, including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day use recreation areas, but not waste from commercial activities that is generated, stored or present in a household.

RUBBLE. Stone, brick, concrete or similar inorganic material, excluding ash, waste tires and asbestos containing waste materials.

SOLID WASTE. Any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded materials, including solid, liquid, semi-solid or contained gaseous material resulting from industrial, commercial and agricultural operations, and from community activities, but does not include mining waste in connection with a mine permitted under SDCL Title 45, hazardous waste as defined under SDCL Chapter 34A-11, solid or dissolved materials in domestic sewage or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under § 402 of the Federal Water Pollution Control Act, being 33 U.S.C. § 1342, as amended to January 1, 1989, or source, special nuclear or by product material as defined by the Atomic Energy Act of 1954, being 42 U.S.C. §§ 2011 et seq., as amended to January 1, 1989.

WHITE GOODS. Discarded refrigerators, ranges, washer, water heaters and other similar domestic and commercial appliances.

(1998 Code, § 8.0309)

§ 50.05 – LEAVING EXPOSED.

It shall be unlawful for the owner or occupant of any lot or tenement within the city to throw or leave exposed upon any lot or within the street or alley adjoining the premises, any vegetable, fruit or animal matter, garbage or any slop or filth whatever, solid or fluid.

(1998 Code, § 8.0105); Penalty, see § 50.99.

§ 50.06 – RECEPTACLES.

It shall be the duty of every owner, tenant, agent, lessee, occupant and person in charge of any and every building, premises or place of business in the city to provide and keep in good condition, for the exclusive use of the buildings, premises or place of business, separate receptacles for receiving and holding, without leakage, the garbage that may accumulate from the building, premises or place of business, or the portion thereof of which the person may be the owner, tenant, lessee or occupant incharge; provided, however, that any owner, tenant or occupant of any building, premises or place of business may destroy by burning or otherwise dispose of garbage produced on the premises, in a manner approved by the City Council or Chief of Police and subject to the provisions of § 50.01 above.

(1998 Code, § 8.0106); Penalty, see § 50.99.

§ 50.08 – RECEPTACLE; HOW MADE; CAPACITY.

Every receptacle provided and intended to receive and hold garbage, shall be made water tight, of galvanized iron or other suitable metal or material, with a tight-fitting cover, which shall be maintained in place so as to prevent the ingress or egress of flies.

(1998 Code, § 8.0108)

§ 50.09 – WHERE KEPT.

The garbage receptacle shall be kept outside of the buildings and within the lot line, adjacent to the alley, if possible; and it shall be unlawful to place or keep any garbage receptacle in the street, alley or public place.

(1998 Code, § 8.0109); Penalty, see § 50.99.

§ 50.10 – ASHES.

The City Council shall make rules and regulations for the keeping and storing of ashes and other rubbish upon private premises in the city and for the removal thereof, and it is hereby declared unlawful for any person or persons to violate the provisions of the rules and regulations as adopted by the City Council for the storage, keeping or removal of garbage, ashes and rubbish.

(1998 Code, § 8.0110); Penalty, see § 50.99.

§ 50.11 – HAULED THROUGH STREETS.

No garbage shall be hauled through the streets or alleys of the city unless contained in a watertight container.

(1998 Code, § 8.0111); Penalty, see § 50.99.

§ 50.12 – DUTY OF PERSON HAULING GARBAGE.

It shall be the duty of all persons hauling garbage in the city to thoroughly clean up all the garbage in the immediate vicinity of the place from which the garbage is removed, and to see that none of the garbage is dropped or liquid matter permitted to escape from the receptacle in which it is being hauled, onto the streets or alleys of the city.

(1998 Code, § 8.0112); Penalty, see § 50.99.

§ 50.13 – LICENSE FOR THE COLLECTION AND HAULING OF GARBAGE.

It shall be unlawful for a contract or commercial garbage hauler to use the streets for the collection, removal or disposal of any garbage, rubbish or waste materials without first having obtained a license to perform the services from the City Council or its designated officer. The application for the license shall be filed at the office of the Finance Officer at least five days prior to any consideration and/or approval by the City Council. The license fee shall be \$10 per year, or part of a year, for each vehicle so engaged and is not transferable. All licenses expire on December 31 in the year they are issued.

(1998 Code, § 8.0113); Penalty, see § 50.99.

COLLECTION OF GARBAGE

§ 50.25 – STORING GARBAGE PRIOR TO COLLECTION.

- (A) All garbage shall be placed in either sealed water-tight bags or inside garbage containers, except leaves and grass which are to be just bagged, and set to the curb or accessible alley on days of pickup.
- (B) Whenever the premises in which garbage and rubbish accumulates are adjacent to a street or alley, the garbage and rubbish containers for the premises shall be kept in a location convenient and accessible to the street or alley; if premises are not adjacent to a street or alley, the garbage and rubbish containers shall be kept on the premises in a location so that they will be readily accessible to the nearest street or alley without being unsightly.
- (C) The proprietor or operator of each duplex, apartment house or similar multiple family dwelling shall furnish and maintain for the use of the tenants a sufficient number of garbage containers to hold all garbage and rubbish that accumulates upon the premises in the course of a week, or he or she shall require the tenants upon the premises to furnish the containers. The place where the garbage and rubbish containers are located shall be kept clean and in a sanitary condition at all times.
- (D) Every owner or person in charge of any restaurant, hotel, grocery store, wholesale or food processing establishment or any other business or commercial place having garbage or rubbish shall furnish and provide for use in connection therewith, a garbage or refuse container. The container shall have covers for all openings, and shall be emptied often enough to prevent the same from giving off any odor or stench.

(1998 Code, § 8.0201); Penalty, see § 50.99.

§ 50.26 – PRIVATE OPERATORS.

The collection of garbage and refuse in the city shall be made by private contractors or operators, who shall be subject to all local ordinances as well as all state and federal regulations. Collections shall be made at least once a week, unless otherwise required by the City Council. All private contractors or operators shall comply with all rules and regulations of the sanitary landfills with which the city has contracted for the disposal of waste, shall be responsible for all costs and fees associated with such disposal.

(1998 Code, § 8.0202)

§ 50.27 – PERMIT REQUIRED.

Private contractors or operators involved with the collection of garbage or refuse in the city shall apply for an annual permit to the City Council. Any permit approved and issued may be revoked by the City Council for violations of laws, regulations or stipulations governing the operations. The application shall include the operators permit number for disposal in an approved sanitary landfill.

(1998 Code, § 8.0203)

§ 50.28 – CITY NOT LIABLE.

The city shall not be liable for any expense incurred through the failure of a contractor or operator or his or her agents and employees, to operate and maintain collection services in a proper and efficient manner, and for any actions that may result from, or be attributed to the services performed.

(1998 Code, § 8.0204)

Statutory reference:

Municipal garbage disposal systems, see SDCL § 9-32-11.

§ 50.29 – EQUIPMENT.

Every garbage collector shall use equipment which will not permit any leakage or spilling and the truck or trailer shall be so covered so that trash, garbage, rubbish or waste will not be dropped or spilled in transit to any place in the city and any violation of this section shall be sufficient cause for revocation of the collectors permit, and in addition thereto he or she shall be guilty of a misdemeanor and subject to fine.

(1998 Code, § 8.0205); Penalty, see § 50.99.

REGULATION OF DRAY BUSINESSES

§ 50.40 – PURPOSE.

The purpose of this subchapter is to regulate and define the duties of all licensed dray businesses within the city.

(1998 Code, § 8.0301)

§ 50.41 – LICENSES.

- (A) All dray businesses operating within the city, shall be licensed by the city, at a rate of \$10 per license per year which license may be revoked by the City Council of the city at any time.
- (B) Licenses shall be valid for one year and are not automatically renewable.
- (C) All initial licenses are subject to an initial six-month probationary period during which time the license may be revoked by the City Council for any reason.

(1998 Code, § 8.0302)

§ 50.42 – GARBAGE FEES.

Each dray business shall furnish a list to the city of those persons and businesses with whom the dray has contracted. Dray fees for the removal of rubble, bulky items, trees and white goods shall be between the dray business and the person or business for who the service is provided.

(1998 Code, § 8.0303)

§ 50.43 – ROUTES.

Each dray business shall have the full discretion as to whether to pick up the garbage, commercial solid waste or household waste at the curb side or alley side.

(1998 Code, § 8.0304); Penalty, see § 50.99.

§ 50.44 – RUBBLE, BULKY ITEMS, TREES AND WHITE GOODS.

- (A) Each dray business shall be required to transport rubble, bulky items, trees and parts thereof weighing less than 40 pounds, and white goods on a regular basis for all contracted customers.

(B) The regular basis shall be no less than quarterly.

(1998 Code, § 8.0305); Penalty, see § 50.99.

§ 50.45 – LANDFILL FEES.

All dray businesses shall be responsible for whatever fees are connected with the disposal of collected materials.

(1998 Code, § 8.0306)

§ 50.46 – RULES AND REGULATIONS.

Each dray business shall be required to dispose of all collected materials in accordance with all city or county statutes and regulations of the state and its agencies; and any ordinances or regulations of the city, or the county or its agencies.

(1998 Code, § 8.0307)

§ 50.47 – EQUIPMENT.

Each dray business shall provide equipment which is capable of properly collecting and disposing of garbage, rubble, commercial solid waste, bulky items, household waste, trees and parts thereof weighing less than 40 pounds and white goods in accordance with applicable ordinances, state statutes, or regulations, and the equipment shall be maintained so as to keep it clean and free of accumulation of offensive materials.

(1998 Code, § 8.0308)

DISPOSAL OF GARBAGE REQUIRED

§ 50.60 – PURPOSE.

The purpose of this subchapter is to ensure the removal of garbage, rubble, commercial solid waste, bulky items, household waste and white goods on a regular basis from the city.

(1998 Code, § 8.0401)

§ 50.61 – REMOVAL OF GARBAGE, COMMERCIAL SOLID WASTE/HOUSEHOLD WASTE.

The owner, operator or member of each individual household or residence, business, association or corporation, within the city, shall contract for the regular removal and disposal of all garbage, commercial solid waste and household waste with a person, party or entity who holds a valid dray license issued by the city. All garbage, commercial solid waste and household waste shall be disposed of in an appropriately permitted facility.

(1998 Code, § 8.0402)

§ 50.62 – REMOVAL OF RUBBLE, BULKY ITEMS AND WHITE GOODS.

Each person and/or business may remove their own rubble, bulky items and white goods without obtaining a dray license, provided the rubble, bulky items and white goods are disposed of in an appropriately permitted facility.

(1998 Code, § 8.0403)

§ 50.63 – BAGGING AND TYING OF GARBAGE.

- (A) All garbage, commercial solid waste and household waste shall be bagged, tied and placed in a suitable container at the curbside or alley side adjacent to the residence or business in accordance with the wishes of and at the times directed by the dray businesses with whom the person or business has contracted for the removal of garbage, commercial solid waste, and household waste.
- (B) Suitable containers are those receptacles equipped with a lid to prevent the contents of the containers from being blown out and scattered.

(1998 Code, § 8.0404)

§ 50.99 – PENALTY.

Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to the penalties described in §10.99.

(1998 Code, § 8.0406)

CHAPTER 51: WATER WORKS

Section

- 51.01 – Creation of Office**
- 51.02 – Duties**
- 51.03 – Employees**
- 51.04 – Turning on water**
- 51.05 – Application**
- 51.06 – Plumbing**
- 51.07 – Service connection**
- 51.08 – Resale**
- 51.09 – Installation**
- 51.10 – Pipes**
- 51.11 – Repairs**
- 51.12 – Excavations**
- 51.13 – Shut-off boxes**
- 51.14 – Meters required**
- 51.15 – Installation**
- 51.16 – Reading meters**
- 51.17 – Testing meters**
- 51.18 – Rates; late fee; reconnection fee**
- 51.19 – Billings**
- 51.20 – Construction contractors**
- 51.21 – Non-payment collection**
- 51.22 – Billing**
- 51.99 – Penalty**

§ 51.01 – CREATION OF OFFICE.

- (A) There is hereby created the Office of Operations Manager, an executive office of the city.
- (B) The Operations Manager shall be appointed by the Mayor, by and with the advice and consent of the City Council.

(1998 Code, § 14.0101)

§ 51.02 – DUTIES.

The Operations Manager shall have charge of the maintenance, repair and operation of the water distribution system of the city, and of all intakes, wells, reservoirs, mains, hydrants and other

appurtenances thereto; and in addition he or she shall perform other duties as may be assigned to him or her by the Mayor and Council.

(1998 Code, § 14.0102)

§ 51.03 – EMPLOYEES.

All employees assigned to the maintenance or operation of the water plant shall be under the supervision and direction of the Operations Manager.

(1998 Code, § 14.0103)

§ 51.04 – TURNING ON WATER.

No water from the city water supply shall be turned on for service into any premises by any person but the Operations Manager or some person authorized by him or her to perform this service.

(1998 Code, § 14.0104)

§ 51.05 – APPLICATION.

- (A) Application for service. Application to have water turned on shall be made in writing to the City Finance Officer, and shall be deemed an agreement by the applicant to abide by and accept all of the provisions of this chapter as conditions governing the use of the city water supply by the applicant.
- (B) Application related to rental property. Application by a renter of any property or rental unit, for service or connection to the rental property, shall contain the agreement of the property owner or an agent on the owner's behalf to abide by and accept all of the provisions of this chapter, and to be jointly liable for the payment of any monetary obligations of the applicant pursuant to this chapter.

(1998 Code, § 14.0105)

(Amended: Ordinance No. 359, 04-04-05)

§ 51.06 – PLUMBING.

No water shall be turned on for service in premises in which the plumbing does not comply with the ordinances of the city; provided, that water may be turned on for construction work in unfinished buildings, subject to the provisions of this chapter. All plumbing fixtures, and methods of installation shall comply with the requirements of the State Plumbing Code, excepting where otherwise specified by ordinance.

(1998 Code, § 14.0106)

§ 51.07 – SERVICE CONNECTION.

- (A) No connections with a water main shall be made without a permit being issued and 24- hours' notice having been given to the Operations Manager.
- (B) All the connections shall be made and all the work done at the expense of the applicant who shall also furnish materials necessary for the work; all the connections shall be made under the supervision of the Operations Manager and no connections shall be covered until the work has been inspected by him or her.

(1998 Code, § 14.0107)

§ 51.08 – RESALE.

No water shall be resold or distributed by the recipient thereof from the city supply to any premises other than that for which application has been made and the meter installed, except in case of emergency.

(1998 Code, § 14.0108)

§ 51.09 – INSTALLATION.

- (A) All service pipes and connections from the water main to the premises served shall be installed by, and the cost of the owner of the property to be serviced or the applicant for the service.
- (B) The installation shall be under the inspection and direction of the Water Department of the city.
- (C) All new and replacement connections from the water main to the premises shall consist of pipes and connections having a diameter of at least one inch.
- (D) The city shall own all service pipes and connections from the water main to the curb stop, and the owner of the premises shall own the pipes and connections beyond the curb stop to the premises served.

(1998 Code, § 14.0109)

(Amended: Ordinance No. 349, 12-02-02)

§ 51.10 – PIPES.

No service shall be installed unless it conforms to specifications drawn up by the Operations Manager and approved thereby.

(1998 Code, § 14.0110)

§ 51.11 – REPAIRS.

- (A) All repairs for service pipes and plumbing systems of building shall be made by and at the expense of the owners of the premises served.
- (B) The city may in case of an emergency, repair any service pipes and if this is done the cost of the repair work shall be repaid to the city by the owner of the premises served.

(1998 Code, § 14.0111)

§ 51.12 – EXCAVATIONS.

Excavations for installing service pipes or repairing the same shall be made in compliance with the ordinance provisions relating to making excavations in streets, provided, that it shall be unlawful to place any service pipe in the same excavation with, or directly over, any drain pipe or sewer pipe.

(1998 Code, § 14.0112); Penalty, see § 51.99.

§ 51.13 – SHUT-OFF BOXES.

Shut-off boxes or service boxes shall be place on every service pipe, and shall be located between the curb line and the sidewalk line where this is practicable. The boxes shall be so located that they are easily accessible and shall be protected from frost.

(1998 Code, § 14.0113)

§ 51.14 – METERS REQUIRED.

- (A) All premises using city water supply shall be equipped with a water meter furnished by the city, provided, that the water service may be supplied by the city at a flat rate of charge until the meter may be installed.
- (B) Before any new premises are occupied, an application must be made for water service and a deposit of \$20 be made on the meter, if renting.

- (C) With the exception of the following: lodges, churches and service organizations, which will, when no meter is installed, be required to pay only the minimum rate per billing, provided not using water on a daily basis.

(1998 Code, § 14.0114)

§ 51.15 – INSTALLATION.

Meters shall be installed in a location that will permit easy access for repair, replacement or reading.

(1998 Code, § 14.0115)

§ 51.16 – READING METERS.

The Operations Manager shall read or cause to be read every water meter used in the city at times as are necessary that the bills may be sent out at the proper time.

(1998 Code, § 14.0116)

§ 51.17 – TESTING METERS.

Any municipal water meter shall be taken out and tested upon complaint of the consumers, upon payment of a fee of \$10. If upon test the meter is not within 3% of being accurate, it shall be repaired or replaced and the \$10 fee returned to the consumer.

(1998 Code, § 14.0117)

§ 51.18 – RATES; LATE FEE; RECONNECTION FEE.

- (A) Flat rate. All property upon which any building has been or may hereafter be erected having a connection with any mains or pipes which exist or which may hereafter be constructed and used in connection with the city water system shall pay a monthly minimum rate as follows:

5/8-inch, 3/4-inch meter	\$10.00
1-inch meter	\$12.00
1-1/4-inch meter	\$15.00
1-1/2-inch meter	\$22.50
2-inch meter	\$37.50

3-inch meter	\$50.00
4-inch meter	\$100.00

- (B) Use rate. In addition thereto, customers shall be charged \$2.80 per 100 cubic foot for every cubic feet of water used above the minimum as set forth hereinabove.

(1998 Code, § 14.0118)

- (C) Additional flat rate. In addition to the flat rate and the use rate, customers having a connection to the city water system for the benefit of property located outside the limits of the municipality shall pay an additional monthly minimum rate of \$15.70. This additional flat rate shall apply regardless of the size of water meter.
- (D) Effective date. These rates shall apply for all new bills dated and sent out after June 1, 2012, regardless of when the customer’s use of the city’s municipal water occurred. These rates may be adjusted by resolution of the City Council.
- (E) Periods of disconnection. All customers having a connection to the city water supply shall be liable for payment of the flat rate and the additional flat rate, as applicable, during all periods of connection and disconnection to the city water supply. Notwithstanding the foregoing, during any period of disconnection from the city water supply, the customer’s liability for the payments shall terminate the seventh month following the start of the period of disconnection.

(Amended: Ordinance No. 331, 09-30-99; Ordinance No. 402, passed 05-07-12)

§ 51.19 – BILLINGS.

Bills for water used shall be dated and sent out at times as may be directed by the Mayor and City Council.

(1998 Code, § 14.0119)

§ 51.20 – CONSTRUCTION CONTRACTORS.

During the construction of any building and before any water is installed as is herein provided the contractor so constructing the building may be permitted to use the city water supply by making application therefor, and paying the flat fee prescribed by the City Council.

(1998 Code, § 14.0120)

§ 51.21 – NON-PAYMENT COLLECTION.

Unpaid accounts may be assigned for collection as provided in SDCL § 9-22-4.

(1998 Code, § 14.0122)

§ 51.22 – BILLING.

- (A) All users shall be billed monthly, or as designated by the City Council.
- (B) Payments are due when the billings are made. Any payment not received by the last day of the month in which they are billed shall become delinquent.
- (C) When any bill becomes delinquent, and after due notice and opportunity for hearing, rendition of water and/or sewer service to the premises shall be discontinued until the bill is paid.
- (D) This chapter shall be in full force and effect from and after final completion of construction and operational start-up of the wastewater treatment plant.

(1998 Code, § 14.0123)

(Amended: Ordinance No. 331, 09-30-99)

§ 51.99 – PENALTY.

Any person failing to comply with the provisions of this chapter shall be guilty of a misdemeanor and upon conviction shall be fined not more than \$500.

(1998 Code, § 14.0121)

CHAPTER 52: MUNICIPAL SEWER

Section

Use of Municipal Sewers

52.01 – Definitions

52.02 – Operations Manager

52.03 – Duties

52.04 – Employees

52.05 – Use of public sewer required

52.06 – Private wastewater disposal

- 52.07 – Sanitary sewers, building sewers and connections**
- 52.08 – Use of public sewers**
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User Charge System

- 52.20 – Intent**
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- 52.22 – Operation and maintenance**
- 52.23 – Actual use rate structure**
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- 52.99 – Penalty**

USE OF MUNICIPAL SEWERS

§ 52.01 – DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BIOCHEMICAL OXYGEN DEMAND (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20°C, expressed in milligrams per liter.

BUILDING DRAIN. The part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (one and one-half meters) outside the inner face of the building wall.

BUILDING SEWER. The extension from the building drain to the public sewer or other place of disposal, also called the *HOUSE CONNECTION*.

CITY. The City of Centerville, South Dakota.

COMBINED SEWER. The extension from the building drain to the public sewer or other place of disposal, also called the *HOUSE CONNECTION*.

EASEMENT. An acquired legal right for the specific use of land owned by others.

FLOATABLE OIL. Fat or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A wastewater shall be considered free of floatable fat if it is properly pre-treated and the waste-water does not interfere with the collection system.

GARBAGE. The animal and vegetable waste resulting from the handling, preparation, cooking and serving of foods.

INDUSTRIAL WASTES. The wastewater from industrial processes, trades or business as distinct from domestic or sanitary wastes.

MAY. Permissive. See *SHALL*.

NATURAL OUTLET. Any outlet, including storm sewers and combined sewer overflows, into a water course, pond, ditch, lake or other body of surface or groundwater.

OPERATIONS MANAGER. The *OPERATIONS MANAGER* of wastewater facilities, and of wastewater treatment works of the City of Centerville, South Dakota, or his or her authorized deputy, agent or representative.

PERSON. Any individual, firm, company, association, society, corporation or group.

pH. The logarithm of the reciprocal of the hydrogen-ion concentration. The concentration is the weight of hydrogen ions, in grams, per liter of solution. Neutral water, for example, has a pH value of seven and a hydrogen-ion concentration of 10^{-7} .

PROPERLY SHREDDED GARBAGE. The wastes from the preparation, cooking and dispensing of food that have been shredded to a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch (1.27 centimeters) in any dimension.

PUBLIC SEWER. A common sewer controlled by a governmental agency or public utility.

SANITARY SEWER. A sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions together with minor quantities of ground, storm and surface waters that are not admitted intentionally.

SEWAGE. The spent water of a community. The preferred term is *WASTEWATER*. See definition for *WASTEWATER* below.

SEWER. A pipe or conduit that carries wastewater or drainage water.

SHALL. Mandatory. See *MAY*.

SLUG. Any discharge of water or wastewater which in concentration of any given constituent or in quality of flow exceeds for any period of duration longer 15 minutes more than five times the average 24-hour concentration or flows during normal operation and shall adversely affect the collection system and/or performance of the wastewater treatment works.

STORM DRAIN. Sometimes termed *STORM SEWER*. A drain or sewer conveying winter, groundwater, water or unpolluted water from any source.

SUSPENDED SOLIDS. Total suspended matter that either floats on the surface of, or is in suspension in water, wastewater or other liquids, and that is removable by laboratory filtering as prescribed in “Standard Methods for the Examination of Water and Wastewater” and referred to as non-filterable residue.

UNPOLLUTED WATER. Water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefitted by discharge to the sanitary sewers and wastewater treatment facilities provided.

WASTEWATER. The spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, together with any groundwater, surface water and storm water that may be present.

WASTEWATER FACILITIES. The structures, equipment and processes required to collect, carry away and treat domestic and industrial wastes and dispose of the effluent.

WASTEWATER TREATMENT WORK. An arrangement of devices and structures for treating wastewater, industrial wastes, and sludge. Sometimes used as synonymous with *WASTE TREATMENT PLANT* or *WASTEWATER TREATMENT PLANT* or *WATER POLLUTION CONTROL PLANT*.

WATERCOURSE. A natural or artificial channel for the passage of water either continuously or intermittently.

(1998 Code, § 13.0101)

§ 52.02 – OPERATIONS MANAGER.

There is hereby created the Office of the Operations Manager, an executive officer of the city. The Operations Manager shall be appointed by the Mayor, by and with the advice and consent of the City Council.

(1998 Code, § 13.0102)

§ 52.03 – DUTIES.

The Operations Manager is subject to the supervision of the Public Enterprise Committee of the City Council and he shall have charge and custody of the sanitary and storm sewer system of the city, shall see to it that the same are kept in good repair and that they function properly.

(1998 Code, § 13.0103)

§ 52.04 – EMPLOYEES.

All employees assigned to the maintenance of or the operation of the sanitary sewer system shall be under the supervision and direction of the Operations Manager.

(1998 Code, § 13.0104)

§ 52.05 – USE OF PUBLIC SEWER REQUIRED.

- (A) It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the city, or in any area under the jurisdiction of the city, any human or animal excrement, garbage or other objectionable waste.
- (B) It shall be unlawful to discharge to any natural outlet within the city, or in any area under the jurisdiction of the city, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this subchapter.
- (C) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of wastewater.

- (D) The owner(s) of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes, situated within the city and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the city, is hereby required at the owner(s) expense to install suitable toilet facilities therein, and to connect the facilities directly with the proper public sewer in accordance with the provisions of this chapter, within 60 days after date of official notice to do so, provided that the public sewer is within 100 feet of the property line.

(1998 Code, § 13.0105)

§ 52.06 – PRIVATE WASTEWATER DISPOSAL.

- (A) Where a public sanitary or combined sewer is not available under the provisions of § 52.23, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this section.
- (B) Before commencement of construction of a private wastewater disposal system, the owner(s) shall first obtain a written permit signed by the Operations Manager. The application for the permit shall be made on a form furnished by the city, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the Operations Manager. A permit and inspection fee of \$50 shall be paid to the city at the time the application is filed.
- (C) A permit for a private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the Operations Manager. The Operations Manager shall be allowed to inspect the work at any stage of construction, and, in any event, the applicant for the permit shall notify the Operations Manager when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within 24 hours of the receipt of notice by the Operations Manager.
- (D) The type, capacities, location and layout of a private wastewater disposal system shall comply with all recommendations of the department of public health of the state. No permit shall be issued for any private wastewater disposal system employing subsurface soil absorption facilities where the area of the lot is less than 15,000 square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.
- (E) At such time as a public sewer becomes available to a property-served by a private wastewater disposal system, as provided in § 52.06, a direct connection shall be made to the public sewer within 60 days in compliance with this chapter, and any septic tank, cesspools and similar private wastewater disposal facilities shall be cleaned of sludge and filled with suitable material.

- (F) The owner(s) shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the city.
- (G) No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the health officer.

(1998 Code, § 13.0106)

§ 52.07 – SANITARY SEWERS, BUILDINGS SEWERS AND CONNECTIONS.

- (A) No unauthorized person(s) shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Operations Manager.
- (B) There shall be two classes of building sewer permits:
 - (1) For residential and commercial service; and
 - (2) For service to establishments producing industrial wastes. In either case, the owner(s) or his agent shall make application on a special form furnished by the city. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the Operations Manager. A permit and inspection fee of \$50 for a residential or commercial building sewer permit and \$50 for an industrial building sewer permit shall be paid to the city at the time the application is filed.
- (C) All costs and expense incidental to the installation and connection of the building sewer shall be borne by the owner(s). The owner(s) shall indemnify the city from any loss of damage that may directly or indirectly be occasioned by the installation of the building sewer.
- (D) A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer, but the city does not and will not assume any obligation or responsibility for damage caused by or resulting from any single connection aforementioned.
- (E) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Operations Manager, to meet all requirements of this subchapter.

- (F) The size, slope, alignment, materials of construction of all sanitary sewers including building sewers, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city. In the absence of suitable code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply.
- (G) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by the building drain shall be lifted by an approved means and discharged to the building sewer.
- (H) No person(s) shall make connection of roof downspouts, foundation drains, areaway drains or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer unless the connection is approved by the Operations Manager for purposes of disposal of polluted surface drainage.
- (I) The connection of the building sewer into the public sewer shall conform to the requirements of the Building and Plumbing Code, or other applicable rules and regulations of the city, or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual of Practice No. 9. All the connections shall be made gastight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the Operations Manager before installation.
- (J) The applicant for the building sewer permit shall notify the Operations Manager when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the Operations Manager or his or her representative.
- (K) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

(1998 Code, § 13.0107)

§ 52.08 – USE OF PUBLIC SEWERS.

- (A) No person(s) shall discharge or cause to be discharged any unpolluted waters such as storm water, surface water, groundwater, roof runoff, subsurface drainage or

cooling water to any sewer, except storm water runoff from limited areas, which storm water may be polluted at times, may be discharged to the sanitary sewer by permission of the Operations Manager.

(B)

(1) Storm water other than that exempted under § 52.05 and all other unpolluted drainage shall be discharged to the sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Operations Manager and other regulatory agencies. Unpolluted industrial cooling water may be discharged, on approval of the Operations Manager, to a storm sewer, combined sewer or natural outlet.

(2) Individuals within the city may drain surface water and/or water from sump pumps located on property the individual has title to, rents, leases, controls, possesses or occupies into the city's storm sewer. The city shall not be responsible for any of the individual's costs associated with the permitted drainage.

(C) No person(s) shall discharge or cause to be discharged any of the following described water or wastes to any public sewers:

(1) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas;

(2) Any waters containing toxic or poisonous solids liquids, or gases, in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance or create any hazard in the receiving waters of the wastewater treatment plant;

(3) Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the wastewater treatment plant; or

(4) Solids or viscous substances in quantities or of a size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the wastewater facilities such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, underground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers and the like, either whole or ground by garbage grinders.

(D) The following described substances, materials, waters or waste shall be limited in discharges to municipal systems to concentrations or quantities which will not

harm either the sewers, wastewater treatment process or equipment, will not have an adverse effect on the receiving stream, or will not otherwise endanger lives, limb, public property or constitute a nuisance. The Operations Manager may set limitations lower than the limitations established in the regulations below if in his or her opinion, the more severe limitations are necessary to meet the above objectives. In forming his or her opinion as to the acceptability, the Operations Manager will give consideration to such factors as the quantity of subject waste in relation to flows and velocities in the sewers, materials of construction of the sewers, the wastewater treatment plant, degree of treatability of the waste in the wastewater treatment plant and other pertinent factors. The limitations or restrictions on materials or characteristics of waste or waste waters discharged to the sanitary sewer which shall not be violated without approval of the Operations Manager as follows:

- (1) Wastewater having a temperature higher than 150°F (65°C);
- (2) Wastewater containing more than 25 milligrams per liter of petroleum oil, non- biodegradable cutting oils, or products of mineral oil origin;
- (3) Wastewater from industrial plants containing floatable oils, fat or grease;
- (4) Any garbage that has not been properly shredded (see § 52.01). Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers;
- (5) Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances to a degree that any such material received in the composite wastewater at the wastewater treatment works exceeds the limits established by the Operations Manager for the materials;
- (6) Any waters or wastes containing odor-producing substances exceeding limits which may be established by the Operations Manager;
- (7) Any radioactive wastes or isotopes of a half-life or concentration as may exceed limits established by the Operations Manager in compliance with applicable state or federal regulations;
- (8) Quantities of flow, concentration or both which constitute a “slug” as defined herein;
- (9) Waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed, or

are amenable to treatment only to the degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters; and

- (10) Any waters or wastes which, by interaction with other water or wastes in the public sewer system, release obnoxious gases, form suspended solids which interfere with the collection system, or create a condition deleterious to structures and treatment processes.

(E)

- (1) If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in division (D) above, and which in the judgment of the Operations Manager, may have a deleterious effect upon the wastewater facilities, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Operations Manager may:

- (a) Reject the wastes;
- (b) Require pretreatment to an acceptable condition for discharge to the public sewers;
- (c) Require control over the quantities and rates of discharge; and/or
- (d) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of division (J) below.

- (2) When considering the above alternative, the Operations Manager shall give consideration to the economic impact of each alternative on the discharger. If the Operations Manager permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Operations Manager.

- (F) Grease, oil and sand interceptors shall be provided when, in the opinion of the Operations Manager, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts as specified in division (D)(3) above, or any flammable wastes, sand or other harmful ingredients; except that the interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Operations Manager, and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors the owner(s) shall be

responsible for the proper removal and disposal by appropriate means of captivated material and shall maintain records of the dates, and means of disposal which are subject to review by the Operations Manager. Any removal and hauling of the collected materials not performed by owner(s) personnel must be performed by currently licensed waste disposal firms.

- (G) Where pretreatment or flow-equalizing facilities are provided or required for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner(s) at his or her expense.
- (H) When required by the Operations Manager, the owner(s) of any property serviced by a building sewer carrying industrial wastes shall install a suitable structure together with the necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. The structures, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Operations Manager. The structure shall be installed by the owner at his or her expenses, and shall be maintained by him or her so as to be safe and accessible at all times.
- (I) The Operations Manager may require a user of sewer services to provide information needed to determine compliance with this subchapter. These requirements may include:
 - (1) Waste waters discharge peak rate and volume over a specified time period;
 - (2) Chemical analyses of wastewaters;
 - (3) Information on raw materials, processes and products affecting wastewater volume and quality;
 - (4) Quantity and disposition of specific liquid, sludge, oil, solvent or other materials important to sewer use control;
 - (5) A plot plan of sewers of the user's property showing sewer and pretreatment facility location;
 - (6) Details of wastewater pretreatment facilities; and
 - (7) Details of systems to prevent and control the losses of materials through spills to the municipal sewer.
- (J) All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this subchapter shall be determined in accordance with the latest edition of Standard Methods for the Examination of Water and

Wastewater, published by the American Public Health Association. Sampling methods, location, times, durations and frequencies are to be determined on an individual basis subject to approval by the Operations Manager.

- (K) No statement contained in this article shall be construed as preventing any special agreement or arrangement between the city and any industrial concern whereby an industrial waste or unusual strength or character may be accepted by the city for treatment.

(1998 Code, § 13.0108)

§ 52.09 – SEWER TAMPERING.

No person(s) shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the wastewater facilities. Any person(s) violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

(1998 Code, § 13.0109); Penalty, see § 52.99.

§ 52.10 – POWERS AND AUTHORITY OF INSPECTORS.

- (A) The Operations Manager and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing pertinent to discharge to the community system in accordance with the provisions of this subchapter.
- (B) The Operations Manager or other duly authorized employees are authorized to obtain information concerning industrial processes which have a direct bearing on the kind and source of discharge to the wastewater collection system. The industry may withhold information considered confidential. The industry must establish that the revelation to the public of the information in question might result in an advantage to competitors.
- (C) While performing the necessary work on private properties referred to in § 52.06 above, the Operations Manager or duly authorized employees of the city shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the loss or damage to its property by city employees and against liability claims and demands for personal injury or death to the city employees, and the city shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted

against the company growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in § 52.08.

- (D) The Operations Manager and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the wastewater facilities lying within the easement. All entry and subsequent work, if any, on the easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

(1998 Code, § 13.0110)

USER CHARGE SYSTEM

§ 52.20 – INTENT.

It is determined and declared to be necessary and conducive to the protection of the public health, safety, welfare and convenience of the city to collect charges from all users who contribute wastewater to the city's treatment works. The proceeds of the charges so derived will be used for the purpose of operating, maintaining and retiring the debt for the public wastewater treatment works.

(1998 Code, § 13.0201)

§ 52.21 – DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BOD (BIOCHEMICAL OXYGEN DEMAND). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20°C, expressed in milligrams per liter (mg/l).

MAY. Permissive.

NORMAL DOMESTIC WASTEWATER. Wastewater that has a BOD concentration of not more than 200 mg/l and a suspended solids concentration of not more than 250 mg/l.

OPERATION AND MAINTENANCE. All expenditures during the useful life of the treatment works for materials, labor, utilities and other items which are necessary for

managing and maintaining the treatment works to achieve the capacity and performance for which the works were designed and constructed.

REPLACEMENT. Expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the useful life of the treatment works to maintain the capacity and performance for which the works were designed and constructed. The term “operation and maintenance” includes *REPLACEMENT*.

RESIDENTIAL CONTRIBUTOR. Any contributor to the city’s treatment works whose lot, parcel of real estate, or building is used for domestic dwelling purposes only.

SHALL. Mandatory.

SS (SUSPENDED SOLIDS). Solids that either float on the surface or are in suspension in water, sewage, or other liquids and which are removable by laboratory filtering.

TREATMENT WORKS. Any devices and systems for storage, treatment, recycling and reclamation of municipal sewage, domestic sewage or liquid industrial wastes. These include intercepting sewers, outfall sewers, sewage collection systems, individual systems, pumping, power and other equipment and their appurtenances; extensions, improvements, remodeling and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including site acquisition of the land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from the treatment (including land for composting sludge, temporary storage of the compost, and land for the storage of treated wastewater in land treatment systems before land application), or any other method or system for preventing, abating, reducing, storing, treating, separating or disposing of municipal waste or industrial waste, including waste in combined storm and sanitary sewer systems.

USEFUL LIFE. The estimated period during which a treatment works will be operated.

USER CHARGE. The portion of the total wastewater service charge which is levied in a proportional and adequate manner for the cost of operation, maintenance and replacement of the treatment works.

WATER METER. A water volume measuring and recording device, furnished and/or installed by the city, furnished and/or installed by a user and approved by the city.

(1998 Code, § 13.0202)

§ 52.22 – OPERATION AND MAINTENANCE.

- (A) The user charge system shall generate adequate annual revenues to pay costs of annual operations and maintenance including replacement and costs associated with debt retirement of bonded capital associated with financing the treatment works which the city may by ordinance designate to be paid by the user charge system. That portion of the total user charge which is designated for operation and maintenance including replacement of the treatment works shall be established by this ordinance.
- (B) The portion of the total user charge collected which is designated for operation and maintenance including replacement purposes as established in § 52.21, shall be deposits in a separate non-lapsing fund known as the Operation, Maintenance and Replacement Fund and will be kept in a primary account as follows.
 - (1) An account designated for the specific purpose of defraying operation and maintenance costs (excluding replacement) of the treatment works (Operation and Maintenance Account).
 - (2) The portion of the total user charge collected which is designated for debit retirement shall be deposited in a separate disbursement known as the Debt Retirement Account.
 - (3) Fiscal year-end balances in the operation and maintenance account and the replacement account shall be carried over to the same accounts in the subsequent fiscal year, and shall be used for no other purposes than those designates for these accounts. Monies which have been transferred from other sources to meet temporary shortages in the operation, maintenance and replacement fund shall be returned to their respective accounts upon appropriate adjustment of the user charge rates for operation, maintenance and replacement. The user charge rate(s) shall be adjusted so that the transferred monies will be returned to their respective accounts within the fiscal year following the fiscal year in which the monies were borrowed.

(1998 Code, § 13.0203)

§ 52.23 – ACTUAL USE RATE STRUCTURE.

- (A) Each user shall pay for the services provided by the city based on his or her use of the treatment works as determined by water meter(s) acceptable to the city.
- (B) For residential contributors, monthly user charges will be based on monthly water usage. For industrial and commercial contributors, user charges shall be based on water used during the current month. If a commercial or industrial contributor has

a consumptive use of water, or in some other manner uses water which is not returned to the wastewater collection system, the user charge for that contributor may be based on a wastewater meter(s) or separate water meter(s) installed and maintained at the contributor's expense, and in a manner acceptable to the city.

- (C) For those contributors who contribute wastewater, the strength of which is greater than normal domestic sewage, a surcharge in addition to the normal user charge will be collected. The surcharge for operation and maintenance including replacement is: \$0.132 per pound BOD and \$0.075 per pound SS.
- (D) Any user which discharges any toxic pollutants which cause an increase in the cost of managing the effluent or the sludge from the city's treatment works, or any user which discharges any substance which singly or by interaction with other substances causes identifiable increases in the cost of operation, maintenance or replacement of the treatment works, shall pay for the increased costs. The charge to each user shall be as determined by the responsible plant operating personnel and approved by the City Council.
- (E) The user charge rates established in this article apply to all users, regardless of their location, of the city's treatment works.

(1998 Code, § 13.0204)

(Amended: Ordinance No. 332, 09-30-99)

§ 52.24 – BILLING AND COLLECTION.

- (A) Collection. All users shall be billed monthly. Payments are due when the billings are made. Any payments not received by the last day of the month in which they are billed shall be delinquent.
- (B) Late fee. A \$4 per month fee shall be assessed to any account which is not paid in full by the last day of the month in which the bill was sent.
- (C) Non-payment collection. Unpaid accounts may be assigned for collection as provided in SDCL § 9-22-4.

(1998 Code, § 13.0205)

(Amended: Ordinance No. 332, 09-30-99)

§ 52.25 – REVIEW OF USER CHARGE SYSTEM.

- (A) The city shall review the user charge system at least annually and revise user charge rates as necessary to ensure that the system generates adequate revenues

to pay the cost of operation and maintenance including replacement and that the system continues to provide for the proportional distribution of operation and maintenance including replacement costs among users and user classes.

- (B) The city will notify each user at least annually, in conjunction with a regular bill, of the rate being charged for operation, maintenance including replacement of the treatment works.
- (C) Each user will be notified, at least annually, in conjunction with a regular bill, of the rate and that portion of the user charges, which are attributable to wastewater treatment services.
- (D) The city shall review the total cost of operation and maintenance as well as each user's wastewater contribution percentage not less often than every two years, and will revise the system as necessary to assure equity of the service charge system established herein and to assure that sufficient funds are obtained to adequately operate and maintain the wastewater treatment works.
 - (1) The city shall apply excess revenues collected from a class of users to the costs of operation and maintenance attributed to that class for the next year and adjust the rate accordingly.
 - (2) If a significant user, such as an industry, has completed in-plant modifications which would change that user's wastewater contribution percentage, the user can represent, at a regularly scheduled meeting of the governing body, the factual information, and the city shall then determine if the user's wastewater contribution percentage is to be changed.
 - (3) The city shall notify the user of its findings be soon as possible.

(1998 Code, § 13.0206)

(Amended: Ordinance No. 347, 09-04-02)

§ 52.26 – SERVICE CONNECTION (TAP-IN FEE).

A sanitary sewer connection charge shall be paid before any sewer connection is completed. Before the connection is made, a permit must be secured from the city and work done at the expense of the applicant who shall furnish materials necessary for the work; all the connections shall be made under the supervision of the Operations Manager and no connection shall be covered until the work has been inspected by him or her.

(1998 Code, § 13.0207)

§ 52.27 – UTILITIES RESTRICTED DEPOSIT.

- (A) The utilities restricted deposit shall be made with each application for water and wastewater service. Provided, that where any applicant for water service is the owner and occupant of the premises to be served no such deposit shall be required.
- (B) A deposit fee of \$150 shall be deposited with the City Finance Officer prior to city water being provided to any person.

(1998 Code, § 13.0209)

§ 52.28 – NEW HOOKUP FOR HOMEOWNERS.

- (A) The deposit shall be held by the city for a period of two years and then returned if a satisfactory credit history, as defined herein, has been maintained.
- (B) Satisfactory credit history is defined as all bills with the city, for a period of two consecutive years, have been paid on time.

(1998 Code, § 13.0209A)

§ 52.29 – FEES.

The fees for certain services, permits, deposits and connections related to utilities shall be as follows:

- (A) Sanitary sewer connection charge: \$200;
- (B) Water service connection charge: \$400;
- (C) Utilities restricted deposit: \$150;
- (D) Reconnection charge: \$50. An additional \$15 charge shall apply for any reconnection requested to occur after 4:30 p.m. of any day, or on any Saturday, Sunday or holiday;
- (E) Public right-of-way excavation permit: \$25;
- (F) Additional charge for sanitary sewer service for properties located outside of the municipal boundaries: \$10; and

- (G) Additional charge for water service to properties located outside the municipal boundaries of \$10.

(1998 Code, § 13.0210)

(Amended: Ordinance No. 390, 11-19-09)

§ 52.30 – TERMINATION PROCEDURE.

The termination procedure shall be as follows.

- (A) To initiate termination proceeding, the City Council shall set a time and place for hearing the matter and written notice of the hearing shall be delivered to the delinquent user at least ten days prior to the date set for the hearing.
- (B) If the City Council upon the hearing finds that the user is delinquent for the required period of time; that there is no bona fide and just dispute surrounding the amount owing on the account; and that the user is unwilling to enter into a reasonable agreement with the municipality to pay the account, the City Council may, in its discretion, order water and sewer service to the user terminated.
- (C) Upon order of the City Council to terminate service, the delinquent user shall receive written notice of the exact time of termination of service at least three days prior to termination.
- (D) The delinquent user shall be entitled to avoid termination of service by payment of all amounts delinquent.

(1998 Code, § 13.0211)

§ 52.31 – RATES.

All property upon which any building has been or may hereafter be erected having a connection with any sanitary sewer main or pipes which exist or may hereafter be constructed and used in connection with the city sanitary sewer system shall pay the following rates.

- (A) Flat Rate. Customers having a connection to the city's sanitary sewer system for the benefit of property located outside the limits of the municipal boundary shall pay a flat rate of Thirty-Two Dollars and Fifty Cents (\$32.50), and for all customers having a connection to the city's sanitary sewer system for the benefit of property located within the limits of the municipal boundary shall pay a flat rate of Twenty-Two Dollars and Fifty Cents (\$22.50).

- (B) Use Rate. Two dollars (\$2.00) per one hundred (100) cubic feet of water used, as determined by the amount of water supplied by the municipal water works system as shown by the water meter reading for the property.
- (C) Maximum Monthly Rate. With regard to residential customers, a maximum monthly rate for sanitary sewer system usage shall be established at Forty-Two Dollars and Fifty Cents (\$42.50) for the months of May, June, July, and August.
- (D) Effective Date. These rates shall apply for all new bills dated and sent out effective July 1, 2016, regardless of when the customer's use of the city's municipal sewer occurred. These rates may be adjusted by resolution of City Council.
- (E) Periods of Disconnection. All customers having a connection to the city sanitary sewer system shall be liable for payment of the Flat Rate during all periods of connection and disconnection to the city sanitary sewer system. Notwithstanding the foregoing, during any period of disconnection from the city sanitary sewer system, the customer's liability for such payments shall terminate the seventh month following the start of such period of disconnection.
- (F) Sanitary Sewer Improvement Project Surcharge. Five Dollars (\$5.00) of Flat Rate, as described in subpart "A. Flat Rate" above, shall be classified as a surcharge for Sanitary Sewer Improvements Project C 461215-02 until said Project is paid in full and no further debt or bond is owed in relation thereto. The surcharge rate shall be subject to adjustment from time to time by resolution of the City as necessary to repay the Project's financing in accordance with any loan agreement to be entered into by the City and the South Dakota Conservancy District.

The revenues collected from the Surcharge shall be segregated from all other funds of the City, and shall be pledged to secure the Bond, and until adequate provision has been made for the debt service on the Bond, shall be used for no purpose other than for the repayment thereof. The Bond shall be payable solely from and secured solely by such segregated revenues, and not from the general revenues of the Wastewater System; provided that the City may from time to time advance moneys from the general revenues of the Wastewater System to make payments on the Bond, but any moneys so advanced shall be repaid from Surcharge collections within one year of the date of such advance.

(1998 Code, § 13.0212)

(Amended: Ordinance No. 371, 06-05-06; Ordinance No. 439, 05-02-16)

§ 52.32 – EXCEPTION TO TERMINATION.

Service shall not be terminated during the following times:

- (A) On any weekend;
- (B) On any holiday;
- (C) In any winter months, unless an additional 30 days' notice of termination be given; or
- (D) In the event of a medical emergency of not more than 30 days and involving the delinquent user.

(1998 Code, § 13.0213)

§ 52.33 – RECONNECTION FEE.

In the event of termination of service for nonpayment as provided herein, a reconnection fee in the amount of \$15, in addition to the amount of the delinquent account, shall be payable prior to restoration of service to the user. The reconnection fee in the amount of \$15 shall also be required in the event of discontinuance of service and be payable prior to restoration of service to the user.

(1998 Code, § 13.0214)

§ 52.34 – PLUMBING.

All sewer pipes and connections shall comply with and be installed in accordance with the requirements and provisions of the National Plumbing Code, current addition, excepting where otherwise specified by ordinance.

(1998 Code, § 13.0215)

§ 52.35 – INSTALLATIONS.

All sewer pipes and connections from the sewer mains to the premises served shall be installed by, and at the cost of the owner of the property to be served or the applicant for the service. The installation shall be under the inspection of the Operations Manager.

(1998 Code, § 13.0216)

§ 52.36 – REPAIRS.

All repairs for service pipes and plumbing system of building shall be made by and at the expense of the owners of the premises served. The city may in case of an emergency, repair any service pipes and if this is done the cost of the repair work shall be repaid to the city by the owner of the premises served.

(1998 Code, § 13.0217)

§ 52.37 – EXCAVATIONS.

Excavations for installing service pipes or repairing the same shall be made in compliance with the ordinance provisions relating to making excavations in streets. Provided, that it shall be unlawful to place any service pipe in the same excavation with, or directly over, any water pipe.

(1998 Code, § 13.0218)

§ 52.99 – PENALTY.

- (A) Any person found to be violating any provision of this chapter shall be guilty of a Class 2 Misdemeanor, and on conviction thereof, shall be fined in the amount not exceeding \$500 for each violation. Each day in which the violation shall continue shall be deemed a separate offense.
- (B) Any person violating or failing to comply with any of the provisions of this chapter shall become liable to the city for any expense, loss or damage occasioned the city by reason of the violation.

(1998 Code, § 13.0111)

TITLE VII – TRAFFIC CODE

Chapter

- 70: GENERAL REGULATIONS**
- 71: OPERATION OF VEHICLES**
- 72: PARKING**
- 73: SNOWMOBILES AS RECREATION VEHICLES**
- 74: BICYCLES, SKATEBOARDS AND THE LIKE**
- 75: SPEED RESTRICTIONS**
- 76: ESTABLISHING TRUCK ROUTES**
- 77: OPERATION OF GOLF CARTS**

CHAPTER 70: GENERAL REGULATIONS

Section

- 70.01 – Definitions**
- 70.02 – Police to direct traffic**
- 70.03 – Obedience to police**
- 70.04 – Persons propelling push cars or riding animals to obey traffic regulations**

§ 70.01 – DEFINITIONS.

For the purpose of this title, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AUTHORIZED EMERGENCY VEHICLE. Vehicles of the Fire Department, police vehicles and ambulances and emergency vehicles of municipal departments or public service corporations as are designated or authorized by the Chief of Police.

BUSINESS DISTRICT. The part of Broadway between Vermillion Avenue and Highway #19-A, and one block on either side thereof on intersecting streets.

CROSSWALK. The portion of a roadway ordinarily included within the prolongation of curb and property lines at intersections, or any other portion of a roadway clearly indicated for pedestrian crossing by lines or other markings on the surface.

INTERSECTION. The area embraced within the prolongation of the lateral curb lines, or if none, then the lateral boundary lines of two or more streets or highways which join one another at an angle whether or not one like street or highway crosses the other.

MOTOR VEHICLE. Every vehicle, as herein defined, which is self-propelled.

OPERATOR. Any person who is in actual physical control of a vehicle.

PARKING. The standing of a vehicle whether attended or unattended, upon a roadway or street otherwise than temporarily for the purpose of and while actually engaged in loading or unloading, or in obedience to traffic regulations or traffic signs or signals.

RESIDENTIAL DISTRICT. All areas not included within the business district.

ROADWAY. The portion of a street or highway between the regularly established curb lines or that part devoted to vehicular traffic.

VEHICLE. Every device in, upon or by which any person or property is or may be transported or drawn upon a public highway excepting devices moved by human power; or used exclusively upon a stationary rails or tracks.

(1998 Code, § 9.0101)

§ 70.02 - POLICE TO DIRECT TRAFFIC.

- (A) It shall be the duty of the Police Department of this city to enforce the provisions of this title.
- (B) Officers of the Police Department are hereby authorized to direct all traffic either in person or by means of visible or audible signal in conformance with the provisions of this title; provided that in the event of a fire or other emergency or to expedite traffic or safeguard pedestrians, officers of the Police or Fire Department may direct traffic, as conditions may require, notwithstanding the provisions of this title.

(1998 Code, § 9.0102)

§ 70.03 – OBEDIENCE TO POLICE.

It shall be unlawful for any person to refuse or fail to comply with any lawful order, signal or direction of a police officer.

(1998 Code, § 9.0103); Penalty, see § 10.99.

§ 70.04 - PERSONS PROPELLING PUSH CARS OR RIDING ANIMALS TO OBEY TRAFFIC REGULATIONS.

Any person propelling any push cart or riding an animal upon a roadway and every person driving any animal, shall be subject to the provisions of this title applicable to the operator of any vehicle, except those provisions of this title with reference to the equipment of vehicles and except those provisions which by their very nature can have no application.

(1998 Code, § 9.0104)

CHAPTER 71: OPERATION OF VEHICLES

Section

- 71.01 – Keeping to the right**
- 71.02 – Overtaking**
- 71.03 – Following too closely**
- 71.04 – Vehicles shall not be driven on sidewalk**
- 71.05 – Brakes, lights and horn**
- 71.06 – License plates**
- 71.07 – Driver’s permit required**
- 71.08 – Careless driving**
- 71.09 – Driving while intoxicated**
- 71.10 – Turning movements and required signals**
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- 71.12 – Method of giving hand and arm signals**
- 71.13 – Yield right-of-way signs**
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- 71.17 – Mufflers**
- 71.18 – Emerging from alley or private driveway**
- 71.19 – Stop at intersections**
- 71.20 – Exhibition driving prohibited**
- 71.21 – Sound disturbance prohibited**

71.99 - Penalty

§ 71.01 – KEEPING TO THE RIGHT.

(A) All persons operating, using or driving any vehicle or vehicles upon any of the streets of the city, shall keep to the right-hand side of the center of the street, except as herein provided, and no vehicle shall be turned around on any street except in the square formed by the intersections thereof with another street.

(B) It shall be unlawful for the driver of any vehicle, except an emergency vehicle or public utility vehicle, to operate or allow the vehicle to cross in whole or in part from the right-hand side of the center of any street to the left-hand side of the center of any street, except at alleys, driveways and intersections. It is further specifically unlawful for any driver of any vehicle, except an emergency vehicle, to operate the vehicle by crossing the center of Broadway Street, except at an intersection, for the purpose of parallel or diagonal parking on the opposite side of the street.

(1998 Code, § 9.0201) ; Penalty, see § 71.99.
(Amended: Ordinance No. 377, 06-04-07)

§ 71.02 – OVERTAKING.

The operator of any vehicle overtaking another vehicle proceeding in the same direction shall pass at a safe distance to the left thereof, but only when the left side is clearly visible and is free from oncoming traffic for a sufficient distance ahead to permit the overtaking and passing to be made in safety and shall not cut in front of the overtaken vehicle until safely clear of the same.

(1998 Code, § 9.0202); Penalty, see § 71.99.

§ 71.03 – FOLLOWING TOO CLOSELY.

The operator of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard to the speed of the vehicles and the traffic upon and condition of the highway.

(1998 Code, § 9.0203); Penalty, see § 71.99.

§ 71.04 – VEHICLES SHALL NOT BE DRIVEN ON SIDEWALK.

The operator of a vehicle shall not drive within any sidewalk area except at a permanent or temporary driveway.

(1998 Code, § 9.0204); Penalty, see § 71.99.

§ 71.05 – BRAKES, LIGHTS AND HORN.

Every motor vehicle operated or driven upon the public highways of this city shall be provided with adequate brakes in good working order sufficient to control the motor vehicle at all times when the same is in use, and a suitable and adequate bell, horn or other device for signaling and shall, during the period of one-half hour after sunset and one-half hour before sunrise, display lighted lamps as required by SDCL Chapter 32-17.

(1998 Code, § 9.0205); Penalty, see § 71.99.

§ 71.06 – LICENSE PLATES.

No person shall operate or drive a motor vehicle within the city without having conspicuously displayed thereon number plate or plates as required by the statutes of the state securely fastened, and shall keep the same free from mud, dirt or other obstruction so that the number plate or plates shall be clearly legible by other persons upon the roadway.

(1998 Code, § 9.0206); Penalty, see § 71.99.

§ 71.07 – DRIVER’S PERMIT REQUIRED.

No person shall drive or operate upon any of the streets or highways within the city any motor vehicle without first having secured and having in his or her possession a valid operator’s license. (1998 Code, § 9.0207); Penalty, see § 71.99.

§ 71.08 – CARELESS DRIVING.

Any person who drives any vehicle carelessly and without due caution, at a speed or in a manner so as to endanger any person or property, not amounting to reckless driving as otherwise defined in the ordinances of the city, shall be guilty of careless driving.

(1998 Code, § 9.0208); Penalty, see § 71.99.

- (C) The foregoing provision of this section shall not be construed as limiting the introduction of any other evidence bearing upon the question of whether or not the defendant was under the influence of intoxicating liquor. Any person who shall violate any of the provisions of this section shall be guilty of a Class 1 misdemeanor for first and second offenses, and a Class 6 felony for a third offense.

(1998 Code, § 9.0209); Penalty, see § 71.99.

§ 71.09 – DRIVING WHILE INTOXICATED.

- (A) It shall be unlawful for any person to drive or operate, or attempt to drive or operate any motor vehicle upon any of the public streets, alleys or public grounds of the city, while the person is in an intoxicated or drunken condition, or under the influence of intoxicating liquor or of any drug.
- (B) If any criminal prosecution for violation of this section relating to driving a vehicle while under the influence of intoxicating liquor, the amount of alcohol in the defendant's blood at the time alleged as shown by chemical analysis of the defendant's blood, urine, breath or other bodily substance shall give rise to the following presumption: if there was at the time 0.10% or more by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was under the influence of intoxicating liquor.
- (C) The foregoing provision of this section shall not be construed as limiting the introduction of any other evidence bearing upon the question of whether or not the defendant was under the influence of intoxicating liquor. Any person who shall violate any of the provisions of this section shall be guilty of a Class 1 misdemeanor for first and second offenses, and a Class 6 felony for a third offense.

(1998 Code § 9.0209); Penalty, see § 71.99.

§ 71.10 – TURNING MOVEMENTS AND REQUIRED SIGNALS.

- (A) At any intersection where there is displayed an official traffic sign displaying the words "No U-Turn," it shall be unlawful for the operator of any vehicle to turn the vehicle at the intersection in a complete circle or so as to proceed in the opposite direction.
- (B) No person shall turn a vehicle at an intersection, unless the vehicle is in proper position upon the roadway, or turn a vehicle to enter a private road or driveway or otherwise turn a vehicle from a direct course or move right or left upon a roadway unless and until the movement can be made with reasonable safety. No person shall so turn any vehicle without giving an appropriate signal in the manner herein provided in the event any other traffic may be affected by the movements.
- (C) A signal of intention to turn right or left when required shall be given continuously during no less than the last 100 feet traveled by the vehicle before turning.

- (D) No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided herein to the driver of any vehicle to the rear when there is opportunity to give the signal.

(1998 Code, § 9.0210); Penalty, see § 71.99.

§ 71.11 – SIGNALS BY HAND AND ARM OR SIGNAL DEVICE.

Any stop or turn signal when required herein shall be given either by the hand or signal device, but when a vehicle is so constructed or loaded that a hand and arm signal would not be visible both to the front and rear of the vehicle then the signals must be given by a lamp or lamps or signal device.

(1998 Code, § 9.0211); Penalty, see § 71.99.

§ 71.12 – METHOD OF GIVING HAND AND ARM SIGNALS.

All signals herein required given by hand and arm shall be given from the left side of the vehicle in the following manner, and the signals shall indicate as follows:

- (A) Left turn: hand and arm extended horizontally;
- (B) Right turn: hand and arm extended upward; and
- (C) Stop or decrease speed: hand and arm extended downward.

(1998 Code, § 9.0212); Penalty, see § 71.99.

§ 71.13 – YIELD RIGHT-OF-WAY SIGNS.

- (A) When a yield right-of-way sign is in place at an intersection, the driver of a vehicle approaching the sign shall, in obedience to the sign, slow down to a speed reasonable for the existing conditions, or shall stop if necessary, and shall yield the right-of-way to any pedestrian legally crossing the roadway on which he or she is driving, and to any vehicle in the intersection or approaching on another street so closely as to constitute an immediate hazard.
- (B) The driver, having so yielded, may proceed and the drivers of all other vehicles approaching the intersection shall yield to the vehicle so proceeding, provided, however, that if the driver is involved in a collision with a pedestrian in a crosswalk or a vehicle in the intersection, after driving past a yield sign without stopping, the collision shall be deemed prima facie evidence of his or her failure to yield the right-of-way.

- (C) Any person who shall violate the provisions of this section shall be guilty of a Class 2 misdemeanor.

(1998 Code, § 9.0213); Penalty, see § 71.99.

§ 71.14 – RIGHT-OF-WAY AT UNCONTROLLED INTERSECTIONS.

Subject to the exceptions stated in the next succeeding section, the right-of-way rule as between vehicles at uncontrolled intersections is hereby declared as follows.

- (A) The operator of a vehicle approaching an intersection shall yield the right-of-way to a vehicle which has fully entered the intersection.
- (B) When two vehicles approach an intersection at approximately the same time, the operator of the vehicle on the left shall yield the right-of-way to the vehicle on the right.
- (C) The operator of any vehicle traveling at an unlawful speed shall forfeit any right-of-way which he or she may otherwise have hereunder.

(1998 Code, § 9.0214); Penalty, see § 71.99.

§ 71.15 – EXCEPTIONS TO RIGHT-OF-WAY RULE.

- (A) The operator of a vehicle entering a public street shall yield the right of-way to authorized emergency vehicles when the latter are operated upon official business and the operators thereof sound audible signal by bell, siren or exhaust whistle.
- (B) This provision shall not relieve the operator of an emergency vehicle from the duty to drive with due regard for the safety of all persons using the street, nor shall it protect the operator of the vehicle from the consequences of an arbitrary exercise of the right-of-way.

(1998 Code, § 9.0215); Penalty, see § 71.99.

§ 71.16 – RACING PROHIBITED.

It shall be unlawful for the operator or driver of any vehicle to race with any other vehicle on the streets or thoroughfares of the city, or to engage in any contest of speed with any other vehicle, or the driver thereof, on the streets and thoroughfares.

(1998 Code, § 9.0216); Penalty, see § 71.99.

§ 71.17 – MUFFLERS.

No person shall drive a motor vehicle on a street or highway within the city unless the motor vehicle is equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying and like character which make loud noises or explosions are hereby declared unlawful and it shall be unlawful to use a muffler cut-out on any motor vehicle.

(1998 Code, § 9.0217); Penalty, see § 71.99.

§ 71.18 – EMERGING FROM ALLEY OR PRIVATE DRIVEWAY.

The operator of a vehicle emerging from an alley, driveway or garage shall stop the vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across any alleyway.

(1998 Code, § 9.0218); Penalty, see § 71.99.

§ 71.19 – STOP AT INTERSECTIONS.

The Chief of Police, with the approval of the Mayor, is hereby authorized to place and maintain or cause to be placed and maintained at the intersection of any street or alley with any other street or alley where in his or her discretion traffic conditions justify the action, appropriate signs bearing the word “Stop” or “Four-Way Stop” or “4-Way Stop”, the signs shall be located in a matter and be of a size as to be clearly legible from a distance of 100 feet along the street or alley intersecting the stop street and shall be illuminated at night or be placed so as to be illuminated by street lights or the headlights of approaching motor vehicles and the operator of any other conveyance traversing the street, upon which the Stop sign has been erected shall bring the vehicle to a full stop at a place within 15 feet of the nearest line of the intersection of the street or street and alley.

(1998 Code, § 9.0219); Penalty, see § 71.99.

§71.20 – EXHIBITION DRIVING PROHIBITED.

- (A) Any person who drives a vehicle within the limits of the city in a manner that creates or causes unnecessary engine noise, or tire squeal, skid or slide upon acceleration or stopping, or that simulates a temporary race; or that causes the vehicle to unnecessarily turn abruptly or sway, shall be guilty of exhibition driving.
- (B) Any person who shall violate any of the provisions of § 71.20 shall be guilty of a Class 2 misdemeanor.

(1998 Code, § 9.0220); Penalty, see § 71.99.

§ 71.21 – SOUND DISTURBANCE PROHIBITED.

No person shall use, operate or permit the use or operation of any radio receiving set, phonograph, stereo receiver, tape deck or other machine or device for the production or reproduction of sound in a manner so as to be plainly audible at 50 feet from the device which is being operated from within or attached to a motor vehicle which is traveling or parked on a public right-of-way.

(Amended: Ordinance No. 344, 04-01-02); Penalty, see § 71.99.

§ 71.99 – PENALTY.

Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to a fine not to exceed \$500.

(Amended: Ordinance No. 344, 04-01-02)

CHAPTER 72: PARKING

Section

72.01 – Stopping, parking prohibited in certain places

72.02 – Parking diagonally

72.03 – Double parking

72.04 – Parking trucks

72.05 – Loading and unloading of trucks prohibited, with exceptions stated

72.06 – Restricted parking signs

72.07 – Twenty-four-hour parking

72.08 – Removal of cars illegally parked

72.09 – Parking for advertising purposes prohibited

72.10 – Parking with traffic

72.11 – Parking trucks

72.12 – Parking on North Broadway restricted

72.13 – Parking on city streets during a snow emergency

72.14 – Stalled vehicles

72.15 – Abandoning stalled vehicles prohibited

72.16 – Towing of vehicles

72.17 – Parking of recreational vehicles on public streets, alleys, and other properties

72.99 – Penalty

§ 72.01 – STOPPING, PARKING PROHIBITED IN CERTAIN PLACES.

It shall be unlawful for the operator of a vehicle to stop, stand or park the vehicle on any of the following places, except when necessary to avoid conflict with other traffic, or in compliance with the directions of a police officer:

- (A) Within an intersection;
- (B) On a crosswalk;
- (C) Within 15 feet of the inside boundary line of the sidewalk or if no sidewalk is in place, within 25 feet of the roadway, except that this provisions shall not apply to alleys;
- (D) Within 15 feet of a fire hydrant;
- (E) In front of a private driveway;
- (F) On a sidewalk; or
- (G) Alongside or opposite any set excavation or obstruction when the stopping, standing or parking would obstruct traffic.

(1998 Code, § 9.0301); Penalty, see § 72.99.

§ 72.02 – PARKING DIAGONALLY.

Upon those streets marked for angle or diagonal parking, a vehicle shall be parked at an angle to the curb indicated by marks or signs with the front wheel touching the curb and the right rear wheel approximately six feet from the curb, at approximately a 45-degree angle.

(1998 Code, § 9.0302); Penalty, see § 72.99.

§ 72.03 – DOUBLE PARKING.

It shall be unlawful for the operator of any vehicle to stop, stand or park the vehicle on the roadway side of any other vehicle stopped or parked at the edge of the curb of a street except while temporarily engaged in the loading and unloading of passengers or materials.

(1998 Code, § 9.0303); Penalty, see § 72.99.

§ 72.04 – PARKING TRUCKS.

It shall be unlawful to park any truck or motor vehicle measuring more than 24 feet overall from front to rear or more than seven feet in width upon Broadway or North Broadway, and in determining the length or width of any truck or vehicle the contents thereof or any trailer attached thereto is deemed part of the vehicle.

(1998 Code, § 9.0304); Penalty, see § 72.99.

§ 72.05 – LOADING AND UNLOADING OF TRUCKS PROHIBITED, WITH EXCEPTIONS STATED.

No motor truck, truck tractor or semi-trailer shall be left standing on Broadway Street between Railroad Street and Vermillion Avenue in the city at any time, except temporarily and when necessary for the purpose of loading or unloading gasoline or fuel oil at filling stations or garages fronting on Broadway Street, or for the purpose of loading or unloading heavy fixtures and equipment, or building materials, provided that, when upon application to the Chief of Police, it is deemed necessary by him or her, the Chief of Police may grant permission to load or unload other heavy merchandise or equipment or articles at times and under conditions as may be specified by the Chief of Police.

(1998 Code, § 9.0305); Penalty, see § 72.99.

§ 72.06 – RESTRICTED PARKING SIGNS.

The Chief of Police, with the approval of the Council is hereby authorized to limit or prohibit parking in places and at times as in his or her and their discretion is necessary by reason of traffic or other local conditions and to place at the restricted or limited spaces appropriate signs indicating the restrictions or limitations, and it shall be unlawful for any vehicle to park in the restricted or limited area contrary to the regulations as indicated by those signs.

(1998 Code, § 9.0306)

§ 72.07 – TWENTY-FOUR-HOUR PARKING.

It shall be unlawful for any person to park or the owner of a vehicle to permit to be parked, any vehicle for a longer period than 24 hours at any one time on Broadway, or on any intersection street one block in each direction from Broadway.

(1998 Code, § 9.0307); Penalty, see § 72.99.

§ 72.08 – REMOVAL OF CARS ILLEGALLY PARKED.

Any vehicle parked in violation of this chapter may be removed from the streets by the Police Department and placed in public storage, and the owner thereof, in addition to the fines and penalties provided in this title, shall pay the charges for towing and storage of the vehicle so removed by the Police Department. All money so collected by the Police Department shall be immediately deposited with the Finance Officer.

(1998 Code, § 9.0308)

§ 72.09 – PARKING FOR ADVERTISING PURPOSES PROHIBITED.

It shall be unlawful for any person to park any vehicle having displayed thereon an advertisement, notice of placard advertising or giving notice that the automobile is for sale, for more than 30 minutes at any one time, on any street in a business district of the city.

(1998 Code, § 9.0309); Penalty, see § 72.99.

§ 72.10 – PARKING WITH TRAFFIC.

No vehicle shall be parked on any street, unless the vehicle is headed in the direction of traffic.

(1998 Code, § 9.0310); Penalty, see § 72.99.

§ 72.11 – PARKING TRUCKS.

Trucks shall not be parked on public streets or alleys in a way so that they obstruct traffic, except while loading or unloading.

(1998 Code, § 9.0311); Penalty, see § 72.99.

§ 72.12 – PARKING ON NORTH BROADWAY RESTRICTED.

No motor vehicles shall park on North Broadway Street where the street is divided by a boulevard from sunrise to sunset, or when it would interfere with the removal of snow thereon. The Police Department shall cause any motor vehicle, which is illegally parked or impeding snow removal operations, to be towed off the street, and the driver or owner of the motor vehicle shall pay the towing charge before reclaiming the motor vehicle.

(1998 Code, § 9.0312)

§ 72.13 – PARKING ON CITY STREETS DURING A SNOW EMERGENCY.

Whenever the U.S. Weather Bureau has forecast snowfall of two inches or more for southeastern South Dakota, there shall be no parking of any motor vehicles upon the streets of the city for a period of 24 hours following the forecast or until snow removal operations have been completed, whichever event shall first occur. The parking may resume on any portion of the street on which snow removal operations have been completed.

(1998 Code, § 9.0313); Penalty, see § 72.99.

§ 72.14 – STALLED VEHICLES.

No person operating a motor vehicle upon the public streets shall allow the vehicle to become partially or wholly stalled so as to impede street cleaning or other traffic within the roadway because of the condition of the streets.

(1998 Code, § 9.0314); Penalty, see § 72.99.

§ 72.15 – ABANDONING STALLED VEHICLES PROHIBITED.

No person operating a motor vehicle upon the public streets which has been stalled and/or improperly parked within the roadway because of the condition of the streets shall abandon the vehicle within the roadway for more than 12 hours. The vehicle shall be considered abandoned if the owner or operator is not with the vehicle.

(1998 Code, § 9.0315); Penalty, see § 72.99.

§ 72.16 – TOWING OF VEHICLES.

Vehicles in violation of this chapter may be towed. A storage charge of \$25 per day or fraction thereof shall be assessed each vehicle until the vehicle is claimed.

(1998 Code, § 9.0316)

§ 72.17 - PARKING OF RECREATIONAL VEHICLES ON PUBLIC STREETS, ALLES, AND OTHER PROPERTY

(A)Definitions. For the purposes of this section, the following terms shall have the following meaning given herein:

- (1) “Park,” “parking,” “stored,” and “storage” mean on-street parking for a continuous period more than twenty-four hours.

- (2) “Motorized Recreational Vehicle” means a motorhome built on a truck or bus chassis or a van chassis.
- (3) “Recreational Vehicle” means motorized and non-motorized vehicles that combine transportation and living quarters for travel, recreation, or camping.
- (4) “Traffic Lane” means a portion of a roadway designed to accommodate the forward movement of a single line of vehicles.

(B) A recreational vehicle parked on a public street, alley, or other publicly owned land shall not be occupied or used for living or sleeping purposes.

This provision shall not apply to recreational vehicles lawfully parked or stored on designed recreational vehicle campgrounds within the City.

(C) A recreational vehicle parked in the same or substantially the same location on a public street, alley, or other publicly owned land for a period greater than 72 hours shall be towed in accordance with § 72.16 of these municipal codes.

(D) A recreational vehicle or any components thereof must not be closer than six (6) feet from any traffic lane.

(E) The recreational vehicle shall not be connected to city water or sewer services or an external source of electricity unless it is actively being cleaned or some other maintenance service is being performed.

This provision shall not apply to recreational vehicles lawfully parked or stored on designated campgrounds within the City.

(F) All recreational vehicles stored or parked on a public street, alley, or other publicly owned land must have a current license plate affixed thereto and visible at all times. Any vehicle without a current valid license plate shall be declared an inoperable vehicle and subject to § 72.16 of these municipal codes.

(1998 Code, § 9.0317); Penalty, see § 72.99.

§ 72.99 – PENALTY.

Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to a fine not to exceed \$500, which shall be in addition to any other charges or fees assessed pursuant to this Title.

(1998 Code, § 9.0314)

CHAPTER 73: SNOWMOBILES AS RECREATION VEHICLES

Section

73.01 – Definitions

73.02 – Regulations

73.03 – Penalty

§ 73.01 – DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

OPERATOR. A person who operates or is in actual physical control of a snowmobile or recreation vehicle.

RECREATION VEHICLE. Any two-, three- or four-wheel vehicle whose primary use is designed for off-street transportation.

SNOWMOBILE. Any engine-driven vehicle of a type which utilizes sled-type runners, wheels or skis with an endless belt tread or similar means of contact with the surfaces upon which it is operated.

(1998 Code, § 9.0401)

§ 73.02 – REGULATIONS.

- (A) It shall be unlawful for any person to operate a snowmobile or recreation vehicle under the following circumstances:
- (1) On private property of another without the express permission to do so by the owner or occupant of the property;
 - (2) On public school grounds, park property, playgrounds or recreation areas without express provision or written permission to do so by the proper public authority; or
 - (3) In a manner so as to create loud, unnecessary or unusual noise so as to disturb or interfere with the peace and quiet of other persons.

- (B) All operators of snowmobiles and recreation vehicles must obey all traffic regulations and be in compliance with all vehicle driving regulations as prescribed by city ordinance or state law.

(1998 Code, § 9.0402); Penalty, see § 10.99.

73.03 – PENALTY.

- (A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to a fine not to exceed \$500, which shall be in addition to any other charges or fees assessed pursuant to this Title.
- (B) Any person violating any of the provisions of this chapter, in addition to the provisions of 73.03(A), shall be liable to the owner of any resulting property damage.

CHAPTER 74: BICYCLES, SKATEBOARDS AND THE LIKE

Section

74.01 – Registration required

74.02 – Application and issuance of license

74.03 – Traffic ordinances and state laws of the road apply to persons riding bicycles

74.04 – Lights

74.05 – Brakes

74.06 – Interference with pedestrians

74.07 – Speed

74.08 – Parents and guardians not to authorize or permit chapter violations

74.99 - Penalty

§ 74.01 – REGISTRATION REQUIRED.

No person shall ride or propel a bicycle, who resides within this city, on any street or upon any public way, unless the bicycle has been registered with the Chief of Police in the city as hereinafter provided, and unless the bicycle has been safety inspected and given a safety inspection sticker, which shall be attached to the rear of the bicycle.

(1998 Code, § 9.0501); Penalty, see § 74.99.

§ 74.03 – APPLICATION AND ISSUANCE OF LICENSE.

- (A) Application for a bicycle safety sticker can be made to the Chief of Police by contacting the before the mentioned person.
- (B) He or a member of the City Police Department will conduct the safety check, and if the bicycle passes the safety check the owner shall then be granted the right to purchase the safety sticker for a minimum charge of \$0.25.

(1998 Code, § 9.0502)

§ 74.03 – TRAFFIC ORDINANCES AND STATE LAWS OF THE ROAD APPLY TO PERSONS RIDING BICYCLES.

Every person riding a bicycle upon a street, alley, sidewalk or other public way shall have all the rights and privileges and shall be subject to all of the duties and obligations applicable to a driver of a motor vehicle under the laws of the city and under the laws of the state.

(1998 Code, § 9.0503); Penalty, see § 74.99.

§ 74.04 – LIGHTS.

Every bicycle when in use at night, shall be equipped with a lamp on the front which will emit a white light visible from a distance of at least 200 feet to the front, and with a red light or reflector on the rear of the bicycle of a type which will be visible from all distances from 25 feet to 200 feet to the rear of the bicycle, when in front of an oncoming motor vehicle.

(1998 Code, § 9.0504); Penalty, see § 74.99.

§ 74.05 –BRAKES.

Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheel skid on dry, level, clean pavement.

(1998 Code, § 9.0505); Penalty, see § 74.99.

§ 74.06 – INTERFERENCE WITH PEDESTRIANS.

No person shall ride or otherwise propel any bicycle, skateboard, rollerskate, rollerblade or other similar human powered equipment or device upon any street or sidewalk in a manner so as to interfere with any pedestrian thereon. Also, no person shall ride or propel any such equipment or

device on any sidewalk in the business district of the city while the businesses are open for business.

(1998 Code, § 9.0506); Penalty, see § 74.99.
(Amended: Ordinance No. 351, 02-03-03)

§ 74.07 – SPEED.

No person shall operate a bicycle at a speed greater than reasonable and prudent under the conditions then existing.

(1998 Code, § 9.0507); Penalty, see § 74.99.

§ 74.08 – PARENTS AND GUARDIANS NOT TO AUTHORIZE OR PERMIT CHAPTER VIOLATIONS.

The parents of any child and the guardians of any ward shall not authorize or knowingly permit the child or ward to violate any of the provisions of this chapter.

(1998 Code, § 9.0508); Penalty, see § 74.99.

§ 74.99 – PENALTY.

Any person violating any of the provisions of this chapter shall be subject to a fine not to exceed \$500.

(1998 Code, §9.0509)

CHAPTER 75: SPEED RESTRICTIONS

Section

- 75.01 – General restrictions**
- 75.02 – Speed zones; establishment**
- 75.03 – Speed limitations**
- 75.04 – Penalty**

§ 75.01 – GENERAL RESTRICTIONS.

It shall be unlawful for any person to drive a vehicle on a street or highway at a speed greater than is reasonable and prudent under the conditions then existing or at a speed in excess of those fixed by this chapter or established by the City Council as hereinafter set forth.

(1998 Code, § 9.0601); Penalty, see § 10.99.

§ 75.02 – SPEED ZONES; ESTABLISHMENT.

- (A) The City Council is authorized and empowered to determine and establish upon any street or highway within the city or any part thereof, limited speed zones which speed limit shall constitute the maximum speed at which any person may drive or operate any vehicle upon zone, street or highway or portion thereof so zoned, and on which highway the maximum speed permissible in the zone has been conspicuously posted by signs adopted by the City Council.
- (B) The beginning and end of the limited speed zones shall be indicated by signs showing the speed limits.
- (C) The City Council may change the speed limit or the extent of any limited speed zone at any time it may deem necessary.

(1998 Code, § 9.0602); Penalty, see § 10.99.

§ 75.03 – SPEED LIMITATIONS.

- (A) Where no special hazard exists on any portion of a street or highway within the corporate limits of the city or on any street or highway adjacent thereto, which section is not zoned and posted as hereinbefore provided, the following speeds shall be lawful, but any speed in excess of those limits shall be unlawful and shall be prima facie evidence that the speed is not reasonable or prudent:
 - (1) Fifteen mph when passing a school house or grounds during recess or while children are going to or leaving school during opening or closing hours;
 - (2) Fifteen mph in any public park; provided, that the City Council may, by duly posted notices, fix a lower rate, in which case the rate of speed as so posted shall not be exceeded; and
 - (3) Twenty mph on any street, alley or highway within or adjacent to the corporate limits of the city, either in the business or residential districts, except as may be herein increased or modified.
- (B) The speed limits set out in this chapter shall not apply to authorized emergency vehicles when responding to emergency calls provided that the driver thereof

shall sound audible signals by siren or horn. This provision shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the street.

(1998 Code, § 9.0603); Penalty, see § 10.99.

§ 75.04 – PENALTY.

Any person violating any of the provisions of this chapter shall be subject to a fine not to exceed \$50.

CHAPTER 76: ESTABLISHING TRUCK ROUTES

Section

76.01 – Truck routes for the city

76.02 – Signs and markings

76.03 – Notification

76.04 – Truck definitions

76.05 – Exceptions to emergency and public vehicles

76.99 – Penalty

§ 76.01 – TRUCK ROUTES FOR THE CITY.

Truck routes for the city shall be as follows:

- (A) Broadway Street;
- (B) Vermillion Street East of Broadway Street;
- (C) Coleman Street between Vermillion and State Streets;
- (D) Nebraska Street from State Highway 419A to Garfield Street;
- (E) Garfield Street from Broadway West;
- (F) Warehouse Street;
- (G) Lincoln Street between Dakota and Iowa Streets; and

(H) Main Street between Dakota and Iowa Streets.

(1998 Code, § 9.0701)

§ 76.02 – SIGNS AND MARKINGS.

Truck routes established pursuant to this chapter shall be identified by signs and markings erected and maintained by the Chief of Police.

(1998 Code, § 9.0702)

§ 76.03 – NOTIFICATION.

The Chief of Police shall also post at the city limits, upon all main traffic routes entering the city, signs notifying users of streets or highways entering the city that trucks are only permitted to be driven upon marked truck routes.

(1998 Code, § 9.0703)

§ 76.04 – TRUCK DEFINITIONS.

- (A) When any truck routes have been established and identified, any person driving a truck having a gross vehicle weight of three tons or more per axle shall drive the truck on the truck routes, except when it is impracticable to do so or when necessary to traverse another street or streets to a destination for the purpose of loading or unloading commodities, or for the purpose of towing a disabled or damaged motor vehicle to or from public or private property, and then only by that deviation from the nearest truck route as is reasonably necessary.
- (B) A truck driving at the end of any designated truck route may be driven over the most direct course to the nearest truck route which extends in the same general direction.
- (C) The provisions of this section shall not apply to emergency vehicles of the Police Department, Fire Department or Health Department nor to any public utility's vehicles, where actually engaged in the performance of emergency duties necessary to be performed by the public departments or public utilities, nor to any vehicle owned or performing work for the city.

(1998 Code, § 9.0704)

§ 76.05 – EXCEPTIONS TO EMERGENCY AND PUBLIC VEHICLES.

The provisions of this chapter shall not apply to emergency vehicles of the Police Department, Fire Department or Health Department, nor to any public utility's vehicles, where actually engaged in the performance of emergency duties necessary to be performed by the public departments or public utilities, nor to any vehicle owned or performing work for the city.

(1998 Code, § 9.0706)

§ 76.99 – PENALTY.

Any person violating this chapter shall be subject to a \$500 fine for each violation.

(1998 Code, § 9.0705)

CHAPTER 77: OPERATION OF GOLF CARTS

Section

77.01 – Definitions

77.02 – Golf cart operation generally

77.03 – Restricted operation on state and county highways

77.04 – Operator's license and insurance

77.05 – Boarding and exiting of golf carts

77.06 – Hours of operation

77.07 – Registration

77.08 – Seating limitations

77.09 – Slow moving vehicle signs or amber lights

77.99 – Penalty

§ 77.01 – DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

GOLF CART. A four-wheeled vehicle, whether powered by electric motor or combustion engine, originally and specifically designed and intended to transport one or more individuals and golf clubs for the purpose of playing the game of golf on a golf course.

OPERATOR. Any person who operates or who is in actual physical control of a golf cart.

OWNER. Any person having legal title or the ownership to a golf cart or who is entitled to its use or possession thereof.

(Amended: Ordinance No. 395, 06-07-10)

§ 77.02 – GOLF CART OPERATION GENERALLY.

- (A) Golf carts shall not be allowed to operate within the city, except as authorized by state statute or by this section.
- (B) Golf carts properly registered pursuant to this chapter shall be allowed to travel on the roadway portion of public streets, alleys and other roadways within the city, except those highways where golf carts are prohibited by state statute.
- (C) An operator of a golf cart shall comply with all city and state traffic rules and regulations applying to vehicles generally, and except that a golf cart shall not be required to have a bell, horn or directional turn signals.

(Amended: Ordinance No. 395, 06-07-10); Penalty, see § 77.99.

§ 77.03 – RESTRICTED OPERATION ON STATE AND COUNTY HIGHWAYS.

No person may operate a golf cart on a state or county highway, except for crossing from one side of the highway to the other. A golf cart may cross the highway at a right angle, but only after stopping and yielding the right-of-way to all approaching traffic and crossing as closely as possible to an intersection or approach.

(Amended: Ordinance No. 395, 06-07-10)

§ 77.04 – OPERATOR’S LICENSE AND INSURANCE.

It shall be unlawful to operate a golf cart on the streets, alleys, roadways or other public places within the city limits, unless the operator has a valid driver’s license and proof of insurance in his or her possession.

(Amended: Ordinance No. 395, 06-07-10); Penalty, see § 77.99.

§ 77.05 – BOARDING AND EXITING OF GOLF CARTS.

It is unlawful for any person to board or alight from a golf cart while the golf cart is in motion.

(Amended: Ordinance No. 395, 06-07-10); Penalty, see § 77.99.

§ 77.06 – HOURS OF OPERATION.

It shall be unlawful to operate a golf cart on the streets, alleys, roadways or other public places within the city limits during the period from a half hour after sunset to a half hour before sunrise, unless the golf cart is fully equipped with an operational headlight, tail light, rear view mirror and horn.

(Amended: Ordinance No. 395, 06-07-10); Penalty, see § 77.99.

§ 77.07 – REGISTRATION.

- (A) It shall be unlawful to operate a golf cart within the city, unless the same is registered in the city. Upon proper application, the city shall issue a registration sticker that shall be placed on the left rear of the vehicle and displayed in a readily identifiable location. Registration fees shall be \$10 per year. The registration fees may be amended by resolution of the City Council.
- (B) Registration shall be on a calendar year basis, with all registrations effective for the period beginning on the date of registration and ending December 31 of the year of registration.

(Amended: Ordinance No. 395, 06-07-10; Ordinance No. 397, 09-08-10); Penalty, see § 77.99.

§ 77.08 – SEATING LIMITATIONS.

- (A) It shall be unlawful for more than two people to occupy the front seat of the golf cart while it is in motion.
- (B) If the golf cart is equipped with a rear seat, no more than two people may occupy the rear seat while the golf cart is in motion.

(Amended: Ordinance No. 395, 06-07-10); Penalty, see § 77.99.

§ 77.09 – SLOW MOVING VEHICLE SIGNS OR AMBER LIGHTS.

Golf carts registered by the city shall have prominently displayed either a slow-moving vehicle emblem or sign or a white or amber warning light.

(Amended: Ordinance No. 395, 06-07-10); Penalty, see § 77.99.

§ 77.99 – PENALTY.

Any person violating any provisions of this chapter shall be subject to a fine of up to \$500 per violation.

(Amended: Ordinance No. 395, 06-07-10)

TITLE IX – GENERAL REGULATIONS

Chapter

90: ANIMAL REGULATIONS

91: PUBLIC NUISANCES

92: SNOW REMOVAL

93: STREETS AND SIDEWALKS

94: OPEN BURNING

CHAPTER 90: ANIMAL REGULATIONS

Section

90.01 Definitions

90.02 Animals running at large prohibited

90.03 Impoundment; disposition of domestic animal

90.04 Additional regulations for impoundment/disposition of domestic dogs

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90.06 Dog and cat licensing

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90.16 Exceptions

90.99 Penalty

§ 90.01 – DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AT LARGE. Off or outside of the premises belonging to the owner or keeper of the dog and not under the control of the owner or keeper, or the agent or servant member of his or her immediate family, by means of a leash, cord or chain not to exceed ten feet in length, provided that an unleashed dog off the owners premises shall not be deemed to be at large if he or she is under the immediate control of the owner or his or her agent and engaged in a course of training which require the animal to be unleashed.

CAT. Any member of the feline family, both male and female. *DOG.* Any member of the canine family, both male and female.

DOMESTIC ANIMAL. Any of various animals (as the horse, sheep, dog, cat, goat) domesticated by man so as to live and breed in a tame condition.

LEASH. A cord, thong or chain not more than ten feet in length by which a dog is controlled by the person accompanying it.

OWNER. A person owning, keeping or harboring a dog; the occupant of any premises to which a dog customarily returns is presumed to be the OWNER.

PREMISES. The dwelling house and outbuildings and the lot or tract of land on which the same are situated and shall include an automobile or other vehicle in which the owner of the dog shall be an occupant or of which he or she shall have control, or in which any dog shall be situated with the consent of the owner of the vehicle.

VACCINATION. The injection by a veterinarian or other qualified person of vaccine approved by, and administered in accordance with, the provisions of this chapter and resolutions of the governing body of the city.

VETERINARIAN. A licensed practitioner of veterinary medicine licensed to practice the profession in the state.

(1998 Code, § 6.0301)

§ 90.02 – ANIMALS RUNNING AT LARGE PROHIBITED.

It shall be unlawful for any person to allow or permit any domestic animal or fowl to run at large upon the property of any person or persons without the consent of the person or persons, or to allow or permit any animal or fowl to run at large upon any of the public streets, alleys or other public grounds of the city, unless the animal be under the direct and immediate control, or restrained by being tied or led by the owner thereof, or by his or her authorized agent.

(1998 Code, § 6.0302); Penalty, see § 90.99.

§ 90.03 – IMPOUNDMENT; DISPOSITION OF DOMESTIC ANIMAL.

- (A) Any domestic animal in the city in violation of any of the provisions of this chapter shall be impounded by any law enforcement officer or by any person or entity appointed by the governing body of the city as its agent or employee. The officer or agent appointed by the governing body may, following the impounding of the domestic animals, notify the owner of the animals having been impounded and of its being kept in the custody of the city, or may cause notice of the impoundment to be posted at the office of the City Police Department.

- (B) Further, that unless the domestic animal is recovered and redeemed by the owner or person having charge thereof, all charges paid for its keep, and unless the owner has registered and licensed the animal as provided by this chapter, the domestic animal shall be sold or destroyed in the most humane manner possible after the expiration of 72 hours from the time when notice that the domestic animal was apprehended and impounded has been given or posted. Provided, however, that any domestic animal which has been diagnosed by a licensed veterinarian to be suffering from rabies or dangerous contagious disease shall not be released, but shall be destroyed forthwith and otherwise held or disposed of according to the veterinarian's recommendations.

- (C) Further, that the Chief of Police or any animal control agent appointed by the governing body shall collect the sum of \$50 for each domestic animal impounded and the additional sum of \$7 per day or any part thereof, for keeping any domestic animal which has been apprehended or impounded, and the officer or agent shall not release any domestic animal until the charges have been paid, and until the animal has been duly registered and licensed, as provided for by this chapter.

(1998 Code, § 6.0303)

(Amended: Ordinance No. 372, 09-06-06)

§ 90.04 – ADDITIONAL REGULATIONS FOR IMPOUNDMENT/DISPOSITION OF DOMESTIC DOGS.

The impoundment and disposition of domestic dogs shall be as enumerated in § 90.03, except that, at the discretion of the Chief of Police or any other animal control officer appointed by the City Council, any dog running at large subsequently impounded which is found to be untagged or unlicensed as required in § 90.06 may be immediately destroyed in the most humane manner possible. The decision to destroy a domestic dog shall be made on a case by case basis, taking in account the factors behind its impoundment.

(1998 Code, § 6.0303A)

§ 90.05 – ALTERNATIVE TO IMPOUNDING.

- (A) As an alternative to impounding a domestic animal found in the city in violation of any of the provisions of this chapter, if the domestic animal cannot be captured and the owner is known to the police officer or animal control officer, then in that case, a citation may be issued to the owner that his domestic animal is in violation of this section, which the citation shall state the violation date, time, location, type or breed, and color of domestic animal, license number if known, and the name and address of the owner of the domestic animal.

- (B) The citation shall direct the owner of the domestic animal to appear before the magistrate court to answer the charge of permitting the domestic animal to run at large or other violation as appears on the ticket.

(1998 Code, § 6.0304)

§ 90.06 – DOG AND CAT LICENSING.

- (A) Every owner of a dog or cat past six months and within the corporate limits of the city, shall pay to the finance officer the sum of \$5 per year for every animal in his or her possession.
- (B) Upon payment of the licensing fee as herein provided, and upon proof of required vaccination, the owner shall receive a license for the animal.
- (C) The license fee shall be paid on or before July 1 of each year, and the finance officer shall, upon the payment of the license fee, give the owner a tag marked as a license tag, and recorded for the year for which the license fee has been paid.
- (D) The owner shall attach the tag to the collar to be placed around the neck of the animal, and the tag shall remain in place a such time as the animal is no longer in the owner's possession, or until the licensing tag is renewed the following year.

(1998 Code, § 6.0305)

(Amended: Ordinance No. 356, 08-02-04)

§ 90.07 – DOGS AND CATS TO BE VACCINATED.

- (A) On or before July 1 of each year, every owner shall have his or her dog vaccinated against rabies, except that in all cases where any dog shall have been properly vaccinated with the type vaccine known as the modified live virus of chick embryo origin or other type vaccine having a longer immunization period and approved by resolution of the governing body of the city, the vaccination required by this section need not be repeated during the time for which the dog is effectively immunized as determined by the veterinarian or other qualified person granting a permit under this chapter.
- (B) Further, that any owner who has had his or her dog vaccinated against rabies in another state or political subdivision by the proper authority therein shall not be required to have the dog re- vaccinated during the current year when brought into this municipality provided that the requirement of the state or political subdivision under which the vaccination was made were of a standard not lower

than those required by this chapter, and further provided that the dog wears a tag affixed to his or her collar or harness bearing the date of the vaccination.

- (C) Further, that every owner shall have his cat vaccinated against rabies in a similar manner as provided in this section.

(1998 Code, § 6.0306)

§ 90.08 – NOISY ANIMALS.

It shall be unlawful for any person to harbor or keep any animal which disturbs the peace by loud noises at any time of the day or night.

(Amended: Ordinance No. 339, 05-07-01); Penalty, see § 90.99.

§ 90.09 – LIVESTOCK; RUNNING AT LARGE; STAKING, GRAZING AND THE LIKE.

- (A) No person owning or having possession, charge, custody or control, of any horse, cow, ox, mule, donkey, swine, sheep, goat or other livestock shall cause, permit or allow the same to stray or run or in any other manner be at large in or upon any unenclosed lot or place, public or private, in the city; nor shall any person owning or having possession, charge, custody or control, of any animal cause or permit or allow the same to be staked out or herd or graze any animal upon any unenclosed private lot or land in the city in a manner that the rope or other attachment by which the animal is tethered may permit the animal to be or to go beyond the boundaries of the unenclosed private lot or land.
- (B) Any animal permitted to be at large or otherwise to be within the city in violation of this section is hereby declared to be a nuisance and a menace to public health and safety.

(Amended: Ordinance No. 339, 05-07-01); Penalty, see § 90.99.

§ 90.10 – FEED YARDS PROHIBITED; EXCEPTION.

- (A) No person shall keep any feed yard or other place where cattle, hogs and other livestock are kept and habitually fed, grazed or fattened within the city.
- (B) This section shall not apply to stockyards or other places where livestock are kept temporarily for convenience in shipping.

(Amended: Ordinance No. 339, 05-07-01); Penalty, see § 90.99.

§ 90.11 – HORSES PROHIBITED IN PARKS AND PARKWAYS.

No person shall lead, drive or ride any horse upon any lawn, flower bed, sidewalk or any other area in any city park or upon any parkway.

(Amended: Ordinance No. 339, 05-07-01); Penalty, see § 90.99.

§ 90.12 – KEEPING OF CERTAIN ANIMALS PROHIBITED.

It shall be unlawful for any person to keep or have within the city limits any animal that habitually or repeatedly chases, snaps at, attacks or barks at pedestrians, bicyclists or vehicles, or turns over garbage pails or damages gardens, flowers, vegetables or conducts itself in a manner so as to be a public nuisance.

(Amended: Ordinance No. 339, 05-07-01); Penalty, see § 90.99.

§ 90.13 – VICIOUS ANIMALS.

- (A) An animal is declared to be a vicious animal if it has a propensity to attack or bite human beings, or if it has ever bitten any person so as to break the skin, and that fact is reasonably known to the person owning, keeping, having charge of, sheltering, feeding, harboring or taking care of the animal. For purposes of this ordinance, a fact is REASONABLY KNOWN if a person shall have actual or constructive knowledge of the fact. Constructive knowledge includes, but is not limited, to knowledge obtained by oral or written notice being given by a law enforcement officer, veterinarian or eye witness to any attack or bite to a human being.
- (B) A vicious animal must be kept in a secure enclosure, or be accompanied by a person who shall, by means of a leash, have the animal firmly under control at all times. A secure enclosure, at a minimum, must have secure sides, a top or roof, and a floor, all of which is in good condition and designed and constructed to eliminate the risk that a dog could breach the confines of the enclosure, escape from the enclosure or bite, scratch or claw through the enclosure. A secure enclosure must include a locking mechanism which eliminates the risk that it could be opened by the animal enclosed or by children. For purposes of this section, the term “leash” shall mean a sturdy rope, chain or cable no more than five feet long that is securely held by an adult who has the ability to securely control the animal by means thereof.
- (C) If this section is violated, in addition to any other punishment or penalty, the animal shall be taken by the Chief of Police or other law enforcement officer or

animal control agent and shall be destroyed, with the expenses thereof to be paid by the owner of the animal. If reasonable efforts to seize the animal fail or pose unreasonable danger, and it is deemed advisable by the law enforcement officer or animal control agent, action as is necessary can be taken to dispose of the vicious animal.

(Amended: Ordinance No. 339, 05-07-01; Ordinance No. 381, 11-05-07); Penalty, see § 90.99.

§ 90.14 – CARE OF DOGS.

- (A) The owner of a dog shall provide it with humane shelter from heat, cold, rain, wind and snow, and shall give it food and water adequate to keep the animal in good health and comfort.
- (B) Dog houses and kennels must be soundly constructed, dry and provided in cold weather with clean bedding.
- (C) All dogs must be given opportunity for vigorous daily exercises and must be provided by their owners with veterinary care when needed to prevent suffering.

(Amended: Ordinance No. 339, 05-07-01); Penalty, see § 90.99.

§ 90.15 – RESTRAINT.

A dog owner shall keep his or her dog under restraint at all times.

(Amended: Ordinance No. 339, 05-07-01); Penalty, see § 90.99.

§ 90.16 – EXCEPTIONS.

Hospitals, clinics and other facilities operated by licensed veterinarians for the care and treatment of animals are exempt from all provisions of this chapter.

(Amended: Ordinance No. 339, 05-07-01); Penalty, see § 90.99.

§ 90.99 – PENALTY.

- (A) Any person violating the provisions of this chapter shall, upon conviction, be fined not less than \$75 for the first offense, not less than \$100 for a second offense, and not less than \$125 for a third or subsequent offense. No fine pursuant to this chapter shall exceed \$500.

- (B) Offenses occurring within the prior five years shall be counted in determining whether the immediate offense is a second, third or subsequent offense.

(1998 Code, § 6.0307)

(Amended: Ordinance No. 391, 11-19-09)

CHAPTER 91: PUBLIC NUISANCES

Section

91.01 – Nuisances prohibited and defined

91.02 – Notice to abate

91.03 – Abatement of nuisances

91.04 – Definitions

91.05 – Storing, parking or leaving on public property; removal

91.06 – Special assessment of costs abatement

91.99 – Penalty

§ 91.01 – NUISANCES PROHIBITED AND DEFINED.

- (A) No person shall create, commit, maintain or permit to be created, committed or maintained any nuisance as defined herein within the city. The following specific acts, conditions and things are hereby declared to constitute nuisances.
- (B) Whatever is dangerous to human health, whatever renders the ground, the water, the air or food a hazard or an injury to human health, and the following specific acts, conditions and things are hereby declared to constitute nuisances:
- (1) Manure. The accumulation of manure;
 - (2) Breeding places for flies. The accumulation of manure, garbage or anything whatever in which flies may breed;
 - (3) Stagnant water. Any excavation, structure or object in which stagnant water is permitted to collect;

- (4) Dead animals. For the owner of a dead animal to permit it to remain undisposed of longer than 24 hours after its death;
- (5) Rodents. Accumulation of junk, old iron, automobiles or parts thereof, or anything whatever in which rodents may live, breed or accumulate;
- (6) Parking livestock trucks or trailers in residential districts. Parking or permitting livestock trucks or trailers to remain on any street, area, or public ground in a residential district where the truck or trailer gives off an offensive odor or is contaminated with manure or other filth;
- (7) Iceboxes; abandonment in places accessible to children. It shall be unlawful for any person, firm or corporation to leave or permit to remain outside of any dwelling, building or other structure or within, any unoccupied or abandoned building, dwelling or other structures under his or her or its control in a place accessible to children any abandoned or discarded icebox, refrigerator or other container which has an airtight door or lid, snap lock or other locking device which may not be released from the inside without first removing the door or lid, snap lock or other locking device from the icebox, refrigerator or container;
- (8) Motor vehicles. The presence of any abandoned, wrecked, dismantled, inoperative, junk or partially dismantled motor vehicle or parts thereof, on private or public property. This division (B)(8) shall not apply to any motor vehicle enclosed within a building on private property, or to any motor vehicle held in connection with a business enterprise duly authorized to operate a junk yard, provided the business is operated within an appropriately zoned district. This section shall not prohibit the presence of any motor vehicle in operable condition specifically adapted or designed for operation on drag strips or raceways, provided the vehicle is covered with an appropriate cover to screen it from view, and the vehicle remains on private property;
- (9) Abandoned property.
 - (a) Any property as follows:
 - 1. Junk car, car bodies or equipment of any type, except in any authorized junk yard; and
 - 2. Any accumulations of other unsightly trash or junk which would constitute a health hazard, a rodent harborage, a breeding area of insects or rodents, or a dangerous place for children to play in and around.

- (b) Unsightly trash or junk includes property in unusable condition, having no value other than nominal scrap or junk value, if any, and which has been left unprotected from the elements outside of a permanent structure, and shall include without being restricted/deteriorated/wrecked, inoperative or partially dismantled motor vehicles, trailers, boats, motors, snowmobiles, lawnmowers, motorcycles, campers, refrigerators and other household appliances, furniture, household goods and furnishings, scrap metals or lumber or other similar articles in like condition.
- (10) Garbage and refuse. Depositing, maintaining or permitting to be maintained or to accumulate upon any public or private property any animal or vegetable matter which attends the processing, preparation, transportation, cooking, eating, sale or storage of meat, fish, vegetables, fruit and all other food or food products found within the city which are likely to cause or transmit disease, or which may be hazard to health. Depositing or accumulating any other item of waste, which is no longer suited for its intended purpose, and having no value other than nominal, junk or scrap value;
- (11) Weeds; duty of owner. Permitting weeds to grow to maturity on any private property including vacant lots is hereby declared to be a nuisance and no owner of any lot, place or area within the city, or the agent of the owner or the occupant of the lot, place or area shall permit on the lot, place or area or upon any sidewalk abutting the same, any weeds, grass or deleterious unhealthful growths or other noxious matter that may be growing, lying or located thereon, and the growing of the weeds or other noxious or unhealthful vegetation is hereby declared to be a nuisance; and
- (12) Wells and cisterns. Any existing well or cistern, whether or not in use, which is not properly capped or sealed at the surface, or any abandoned or forfeited well or cistern not plugged in accordance with state statutes and regulations.
- (13) Yard waste. Depositing, accumulating, or permitting to be deposited or accumulated on any street, alley, or public ground any grass clippings, leaves, or other yard waste produced in conjunction with yard maintenance or gardening shall be a violation of this ordinance. The owner, tenant, or person in charge of any lot within the City is responsible for ensuring that any persons hired to cut their grass or maintain their yard abide by this ordinance.

(Amended: Ordinance No. 335, 06-05-00; Ordinance No. 451, 11-05-2018); Penalty, see § 91.99.

§ 91.02 – NOTICE TO ABATE.

- (A) When a nuisance, if found to exist or a meritorious complaint that a nuisance exists is received by the city, the Chief of Police shall investigate the nuisance, and if it is in violation of this chapter, a notice to abate the nuisance shall be sent to the property owner or occupant.
- (B) The owner or occupant shall have five days to abate the nuisance. The notice shall be made by personal delivery or certified mail to the owner and/or occupant. If mail or personal service is refused, the notice may be posted on the property. The notice shall state the location of the property, the nature of the nuisance and the action necessary to abate the nuisance.

(Amended: Ordinance No. 335, 06-05-00)

§ 91.03 – ABATEMENT OF NUISANCES.

If the owner and/or occupant fails to abate the nuisance in accordance with the notice given, the City Council shall cause the abatement thereof and for that purpose may enter upon the property.

(Amended: Ordinance No. 335, 06-05-00)

§ 91.04 – DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABANDONED MOTOR VEHICLE. Any motor vehicle which is left unattended on any public street or alley, in any public parking lot, or in any other public place for an unreasonable period of time.

JUNK MOTOR VEHICLES. Any motor vehicle, whether on public or private property, which does not have lawfully affixed thereto any unexpired license plates or which is wrecked, dismantled, partially dismantled, inoperable or discarded.

INOPERABLE MOTOR VEHICLE. Any motor vehicle which is either unlicensed, uninsured or which at the time is mechanically unfit for travel on public roadways.

MOTOR VEHICLE. Any self-propelled vehicle including, but not limited to, automobiles, motorcycles, motor scooters, trucks, tractors, go carts, golf carts and campers.

(Amended: Ordinance No. 335, 06-05-00)

§ 91.05 – STORING, PARKING OR LEAVING ON PUBLIC PROPERTY; REMOVAL.

- (A) Whenever any police officer finds an abandoned motor vehicle, inoperable motor vehicle or junk motor vehicle, on public property, he or she shall place on the vehicle notice that the nuisance must be abated within five days of the giving of the notice.
- (B) After the expiration of the five-day period, the vehicle may be removed or towed at the request of any police officer.
- (C) Nothing in this section precludes a police officer from immediately removing a motor vehicle which causes an obstruction or hazard to traffic.
- (D) Removal of any motor vehicle pursuant to this section shall constitute an abatement of the nuisance.
- (E) If the city incurs any liability for the cost of removing a vehicle, or storing the vehicle, pursuant to this section, the cost shall be paid by the owner of the vehicle so removed prior to possession of the motor vehicle being returned to its owner.

(Amended: Ordinance No. 335, 06-05-00)

§ 91.06 – SPECIAL ASSESSMENT OF COSTS ABATEMENT.

The Finance Officer shall cause an account to be kept against each lot or parcel of property for the cost of abating any nuisance thereon during the year, and the same shall be specially assessed in accordance with state law as a special lien on the property. The City Council shall approve the amount of each special assessment.

(Amended: Ordinance No. 335, 06-05-00)

§ 91.99 – PENALTY.

In addition to the abatement procedures set forth above, any person violating the provisions of this chapter shall be guilty of a Class 2 misdemeanor and subject to a fine not to exceed \$500. Each day that a violation of this chapter exists and is not cured within the notice period shall constitute a separate offense punishable as set forth herein.

(Amended: Ordinance No. 335, 06-05-00)

CHAPTER 92: SNOW REMOVAL

Section

General Provisions

- 92.01 – Nuisances prohibited and defined
- 92.02 – Notice to abate
- 92.03 – Abatement of nuisances
- 92.04 – Definitions
- 92.05 – Storing, parking or leaving on public property; removal
- 92.06 – Special assessment of costs abatement
- 92.07 – Civil remedy as alternative to special assessment

Snow Removal Route

- 92.20 – SD 19A designated

Snow Removal on Streets

- 92.30 – Parking on streets prohibited
 - 92.31 – Stalled vehicles
 - 92.32 – Abandonment of vehicle prohibited
 - 92.33 – Towing of vehicles
 - 92.34 – Removal of vehicle from impoundment
-
- 92.99 – Penalty

GENERAL PROVISIONS

§ 92.01 – DUTY OF OWNER AND PERSON IN POSSESSION.

- (A) The owner and person in possession of any property abutting on any sidewalk shall keep the sidewalk free from snow and ice and shall remove any snow or ice from the sidewalk within 48 hours after the termination of any snowfall, or after any snow or ice accumulation.

- (B)
 - (1) The owner and person in possession of any property abutting upon any sidewalk which ends at an intersection or crosswalk shall maintain the sidewalk free from snow and ice to the edge of the street.

- (2) Snow and ice deposited on the sidewalk or around the fire hydrant during the street clearing or street snow removal process shall be removed by the owner or person in possession of the abutting property within 48 hours of the snow or ice being deposited.
- (C) The owner and person in possession of any property which abuts a fire hydrant shall refrain from obstructing the hydrant or access to the hydrant in any way, and shall remove all snow and ice from the hydrant and at least four feet around the hydrant within 48 hours of a snowfall or of the accumulation of the snow or ice, and shall keep the hydrant free of snow and ice at all times unless a waiver is approved by the City Fire Chief.
- (D) The owner of any property abutting any sidewalk or fire hydrant subject to the provisions of this chapter shall be jointly and severally liable, along with any person in possession of the property, for the performance of the obligations imposed by the provisions of this chapter; and the property owner's obligations under this chapter are not relieved by the fact that some other person may be liable or that the property has been leased.

(Amended: Ordinance No. 393, 06-07-10)

§ 92.02 – FROZEN SNOW AND ICE.

In case the snow and ice on any sidewalk shall be frozen so hard that it cannot be removed without injury to the pavement, the owner or person in possession shall, within 48 hours of the snowfall or snow and ice accumulation, cause the sidewalk abutting or adjacent to the property to be strewn and to be kept strewn with sand, salt or chemicals intended to melt the snow and ice, and as soon thereafter as the weather shall permit, thoroughly clear the sidewalk from the accumulated snow and ice.

(Amended: Ordinance No. 393, 06-07-10)

§ 92.03 – DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CENTERVILLE FIRE CHIEF. Any person acting as Fire Chief of the City Fire Department, or any person acting as a designated agent of the Fire Chief.

PERSON. Includes one or more persons of either sex, natural persons, corporations, partnerships, associations, joint ventures, companies, societies or all other entities of any kind capable of being sued.

(Amended: Ordinance No. 393, 06-07-10)

§ 92.04 – DISPOSAL OF SNOW AND ICE.

The owner or person in possession of any property, or the person removing snow or ice from any sidewalk, public or private driveway, parking lot or parking area, or from any fire hydrant, shall dispose of accumulated snow and ice as follows.

- (A) Snow or ice shall not be deposited on any sidewalk or in any park in the city.
- (B) Snow and ice shall not be deposited upon any public street, avenue or alley that has been cleared or partially cleared of snow and ice by the grading or plowing of the public right-of-way, or the picking up and carrying away of the snow or ice by the city. Spreading of snow and ice that has been broken up and spread evenly over the surface of the street, avenue or alley shall be allowed prior to the start of the city's efforts to clear the street, avenue or alley of snow and ice accumulation;
- (C) Snow or ice shall not be deposited so as to obstruct or interfere with the passage or vision of vehicular or pedestrian traffic.
- (D) Snow and ice shall not be deposited upon any street, alley or other location where it would like obstruct storm sewer drainage or any inlet or drain to the city storm sewer system.

(Amended: Ordinance No. 393, 06-07-10)

§ 92.05 – CITY MAY REMOVE ACCUMULATED SNOW AND ICE.

- (A) If the owner or person in possession of any property abutting on any sidewalk, or abutting any fire hydrant, shall fail or refuse to remove the snow or ice from the sidewalk or from around the fire hydrant within 48 hours of the falling of the snow or accumulation of the snow or ice, the city may remove or cause to be removed the snow or ice as necessary and assess the cost thereof against the fronting or abutting property.
- (B) This section shall not obligate the city to remove the accumulated snow or ice, and the city may pursue other action in addition to or as an alternative to the remedy described in this section.

(Amended: Ordinance No. 393, 06-07-10)

§ 92.06 – ASSESSMENT OF COSTS OF CITY TO REMOVE SNOW AND ICE.

- (A) The cost to the city for the removal of snow and ice each year shall be certified to the city's Finance Office by the Street Department on or before September 1 of each year.
- (B) The Finance Officer shall prepare an estimate of the assessment against each lot for the removal of snow and ice for the preceding season including the expense of levying the special assessment against each lot. The estimates shall be submitted to the City Council.
- (C) The City Council shall approve and file the assessment roll with the Finance Officer. After approval and filing with the Finance Officer, the assessment roll shall be a special lien against the property described and shall be collected in a like manner as for special assessments for public improvements.

(Amended: Ordinance No. 393, 06-07-10)

§ 92.07 – CIVIL REMEDY AS ALTERNATIVE TO SPECIAL ASSESSMENT.

In lieu of spreading the cost of snow and ice removal as a special assessment against the property, in the discretion of the City Council, the cost may be recovered in a civil action against the owner and/or person in possession of the property.

(Amended: Ordinance No. 393, 06-07-10)

SNOW REMOVAL ROUTE

§ 92.20 – SD 19A DESIGNATED.

- (A) State Highway #19A is a snow removal route and that at anytime after a snowfall of two inches or greater is received, all vehicles must be removed from State Highway 19A until the snow and whatever other moisture accumulation has been removed from State Highway 19A.
- (B) Vehicles not removed from State Highway 19A after a two-inch or greater snowfall are subject to towing at owner's expense.

(1998 Code, § 7.0201)

SNOW REMOVAL ON STREETS

§ 92.30 – PARKING ON STREETS PROHIBITED.

Whenever the U.S. Weather Bureau has forecast snowfall of two inches or more for southeastern South Dakota, there shall be no parking of any motor vehicles upon the streets of the city for a period of 24 hours following the forecast or until snow removal operations have been completed, whichever event shall first occur. The parking may resume on any portion of any such street on which snow removal operations have been completed.

(1998 Code, § 7.0301)

§ 92.31 – STALLED VEHICLES.

- (A) No person operating a motor vehicle upon the public streets shall allow the vehicle to become partially or wholly stalled so as to impede street cleaning or other traffic within the roadway because of the condition of the streets.

(1998 Code, § 7.0302)

§ 92.32 – ABANDONMENT OF VEHICLE PROHIBITED.

- (A) No person operating a motor vehicle upon the public streets which has been stalled and/or improperly parked within the roadway because of the condition of the streets shall abandon the vehicle within the roadway for more than 12 hours.
- (B) The vehicle shall be considered abandoned if the owner or operator is not with the vehicle.

(1998 Code, § 7.0303)

§ 92.33 – TOWING OF VEHICLES.

- (A) Vehicles in violation of this subchapter may be towed.
- (B) A storage charge of \$1 per day shall be assessed each vehicle until the vehicle is claimed.

(1998 Code, § 7.0304)

§ 92.34 – REMOVAL OF VEHICLE FROM IMPOUNDMENT.

No person shall remove a vehicle impounded by the city because of violation of the traffic ordinances until all fines or bonds, towing and storage fees have been paid to the city.

(1998 Code, § 7.03005)

§ 92.99 – PENALTY.

- (A) Any person violating any provision of this chapter for which no specific penalty is provided shall be subject to § 10.99.
- (B) Any person violating any provision of §§ 92.01 through 92.07 shall, upon conviction, be subject to a fine of not more than \$500, and each day on which the violation continues shall constitute a separate offense. Conviction under this division, or payment of any criminal penalty, shall not be in lieu of any special assessment or civil remedy for recovery of the costs of snow or ice removal.
- (C) A violation of § 92.20 is also subject to a maximum fine of \$500.

(1998 Code, § 7.0201)

- (D) A person in violation of § 92.31 shall be punished by a fine of not less than \$500.

(1998 Code, § 7.0302)

- (E) Any person violating §§ 92.30 through 92.34 shall be punished by a fine of not less than \$500, which shall be paid in addition to any other charge or fees assessed pursuant to traffic ordinances.

(1998 Code, § 7.0306)

CHAPTER 93: STREETS AND SIDEWALKS

Section

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GENERAL PROVISIONS

§ 93.001 – APPOINTMENT; ASSISTANT OPERATIONS MANAGER.

There is hereby created the Office of Assistant Operations Manager, who shall be appointed by the Mayor with the consent of the City Council.

(1998 Code, § 12.0101)

§ 93.002 – DUTIES; STREETS.

- (A) The Assistant Operations Manager shall have charge of the maintenance and repair of all public streets, alleys, sidewalks and other public places, and with the keeping of the same clean.
- (B) He or she shall see to it that all gutters and drains therein function properly and that the same are kept free from defects.

(1998 Code, § 12.0102)

§ 93.003 – DUTIES; PARKS.

The Assistant Operations Manager shall have charge of the care and upkeep of all city owned parks, and shall see that the park areas and facilities are kept in good and safe condition.

(1998 Code, § 12.0103)

§ 93.004 – EMPLOYEES.

The Assistant Operations Manager shall have supervision over all employees assigned to him or her.

(1998 Code, § 12.0104)

§ 93.005 – PURCHASES AND INVENTORY.

- (A) The Assistant Operations Manager shall make purchases of supplies, materials and equipment authorized by the Council in the manner prescribed by, and subject to the limitations imposed by law.
- (B) He or she shall maintain an inventory of supplies and equipment in his or her custody.

(1998 Code, § 12.0105)

§ 93.006 – SUPERVISION.

All maintenance and repair of public streets, alleys, sidewalks and other public ways shall be under the supervision of the Assistant Operations Manager.

(1998 Code, § 12.0106); Penalty, see § 93.999.

§ 93.007 – PERMIT REQUIRED.

It shall be unlawful to construct or lay any pavement on any public street, sidewalk, alley or other public way, or to repair the same, without having first secured a permit therefore. Applications for the permits shall be made to the Finance Officer, and shall state the location of the intended pavement or repair, the extent thereof, and the person or firm who is to do the actual construction work. Additional information shall be submitted if necessary to the type of work.

(1998 Code, § 12.0107); Penalty, see § 93.999.

§ 93.008 – BOND.

Applicants may be required to file a bond with surety and/or bond amount to be approved by the City Council.

(1998 Code, § 12.0108)

§ 93.009 – CONSTRUCTION STANDARDS.

All street and sidewalk pavements shall be constructed in accordance with details and specifications as established or approved from time to time by the City Council.

(1998 Code, § 12.0109)

§ 93.010 – REPAIRS AND DEFECTS.

- (A) All public streets, alley and sidewalk pavements shall be in good repair.
- (B) The repair work, whether done by the city or by the abutting owner, shall be under the supervision of the Assistant Operations Manager. It shall be the duty of every city official and employee becoming cognizant of any defect in any street, alley or sidewalk, or any obstruction thereof, to report the same to the Assistant Operations Manager.

(1998 Code, § 12.0110); Penalty, see § 93.999.

§ 93.011 – BARRICADES.

Any person, firm or corporation laying or repairing any pavement on a street, sidewalk or other public place shall maintain suitable barricades to prevent injury of any person or vehicle by reason of the work; the barricades shall be protected by a light at nighttime.

(1998 Code, § 12.0111); Penalty, see § 93.999.

§ 93.012 – INSPECTION OF WORK.

All work shall be subject to inspection of the city, during construction and upon completion. The city shall be notified by the permittee when construction begins, and may be halted until approval by the city.

(1998 Code, § 12.0112); Penalty, see § 93.999.

§ 93.013 – INJURY TO NEW PAVEMENT.

It shall be unlawful to walk upon or drive any vehicle or animal upon, or injure any newly laid street or sidewalk while the same is guarded by a warning sign or barricade, or to knowingly injure any soft or newly laid pavement.

(1998 Code, § 12.0113); Penalty, see § 93.999.

§ 93.014 – DEPOSITS ON STREETS.

It shall be unlawful to deposit on any street, sidewalk or other public right-of-way any material which may be harmful to the pavement thereof, or any waste material, or any glass, or other articles which may cause injury to any person, animal or property. Materials or other articles may be deposited in streets or on other public right-of-way preparatory to delivery, provided that the usage width will not interfere with the traffic and provided that the materials or other articles shall not be permitted to remain in the area for more than 24 hours.

(1998 Code, § 12.0114); Penalty, see § 93.999.

§ 93.015 – DANGEROUS TREES.

Any tree or shrub which overhangs any street, sidewalk or other public place in the city in a way so as to impede or interfere with traffic or travel on the public place or which obstructs any street lamp or interferes with the fire lane shall be trimmed by the owner of the abutting premises or of the premises on which the tree or shrub grows so that the obstruction shall cease.

(1998 Code, § 12.0115)

§ 93.016 – PLANTING TREES OR SHRUBS.

- (A) It shall be unlawful to plant any tree or shrub in any public street or other public place without first having secured a permit therefore.
- (B) Applications for permits shall be made to the Finance Officer, and shall be referred by him or her to the Mayor and City Council.
- (C) All trees and shrubs so planted shall be placed subject to the direction and approval of the City Council.

(1998 Code, § 12.0116); Penalty, see § 93.999.

§ 93.017 – TREE REMOVAL OR INJURY.

- (A) It shall be unlawful to remove, cut down or injure any tree or shrub planted or growing in any public street or other public place.
- (B) Applications for tree removal shall be made to the Finance Officer, and shall be referred by him or her to the Mayor and City Council for approval.

(1998 Code, § 12.0117); Penalty, see § 93.999.

NAMES OF STREETS

§ 93.030 – NAMES OF STREETS.

The names of the streets in the city shall be as are shown on the official plat of the city, now on file in the office of the Finance Officer, or as may from time to time be changed by ordinance of the governing body.

(1998 Code, § 12.0201)

CURB LINES AND GRADES

§ 93.040 – CURB LINES.

The curb lines in the city heretofore established by ordinances of the city, and as shown and set forth on the official map or plat now on file with the Finance Officer, as of the date of the adoption of this chapter, are hereby established and adopted as the official curb lines in the city.

(1998 Code, § 12.0301)

§ 93.041 – GRADES.

The grades of the streets of the city, are hereby established in accordance with the survey and recommendations made by Arthur A. Loft, and as appear from a plat or map designated as the “Grade Map of Centerville, South Dakota”, and the bench mark as determined by the survey of Ellis V. Nelson.

(1998 Code, § 12.0302)

§ 93.042 – ESTABLISHED GRADE.

The bench mark or initial point from which all grades in the city are computed, is a point 1.07 feet below the top of the block at the base of the north pillar on the front of the First National Bank building in the city, being located at the northwest corner of Block 15 of the original plat of the city.

(1998 Code, § 12.0303)

§ 93.043 – RECKONING GRADES.

The grades established by this chapter shall be reckoned in feet and decimals of feet above a certain horizontal plane 100 feet below a certain bench mark described and located in § 93.042 as is adopted be reference, and incorporated herein.

(1998 Code, § 12.0304)

USE OF STREETS

§ 93.055 – OBSTRUCTIONS ON STREETS.

No person shall place, leave or keep on any public street, road, alley, sidewalk or other public ground in the city, any wagon, automobile, cart, truck, sleigh or other vehicle, except when the same shall be in actual use; nor shall any person place, leave or keep on any public street, road, alley, sidewalk, or other public ground in this city, any other article, substance or material which may obstruct the free use of the street, road, alley, sidewalk, public ground, curb or drain except as hereinafter provided.

(1998 Code, § 12.0401); Penalty, see § 93.999.

§ 93.056 – MATERIALS IN STREETS; PERMITS.

The Council is authorized to grant permission in writing to any person to deposit and keep lumber, stone, brick or other materials for building, on any public sidewalk, street, road or alley adjacent to the building to be erected or repaired, but the permission shall not excuse the obstruction or occupancy with materials of more than one-third of the width of any driveway of any street or road.

(1998 Code, § 12.0402)

§ 93.057 – PERMITS.

- (A) The permits shall not be issued for a longer period than 30 days, but may in case of necessity, be renewed for a like period, and shall be issued only when the applicant therefore has filed with the City Auditor a written agreement executive by him or her and approved by the City Attorney to hold the city harmless from any and all damages for which the city may be or become liable because of the occupation of the street and to pay any and all cost of repairing and damage to the city for removal of the obstruction, should the applicant unlawfully occupy the street.
- (B) The permits shall, during the time the work is in progress, be kept on the ground and shall be exhibited upon the demand of any officer or authorized employee of the city, and any officer or employee of the city, and any officer or employee shall

take up and return to the Mayor, any expired permit, or any permit which does not cover the work being done.

(1998 Code, § 12.0403)

§ 93.058 – CLEANING STREETS OF RUBBISH.

Every person to whom permission shall be granted as herein provided, to place and keep building material in street, highway, avenue or alley, shall cause all the material and rubbish resulting therefrom to be removed from the street, highway, avenue or alley at the expiration of the time limited in the permit, unless the time, for good cause, shall be extended by the officer herein designated, and any person depositing and keeping any building material in any street, highway, avenue or alley under a permit from the Mayor or Finance Officer as hereinbefore provided shall during every night while the same shall there remain keep one or more lighted lanterns so placed that the material or obstruction may be easily seen by persons passing along the street, highway, avenue or alley.

(1998 Code, § 12.0404)

§ 93.059 – EXCAVATION NEAR STREET.

It shall be unlawful for any person, owner or occupant of any lot or parcel of land within the city to make or cause to be made any excavation on the lot or parcel of land, except the same be securely guarded so as to prevent the injury of any person or persons or animals passing upon or along the sidewalks, street, alleys or public grounds or traveled path or roadway.

(1998 Code, § 12.0405); Penalty, see § 93.999.

§ 93.060 – CONTINUING NUISANCE.

The occupation of any street, highway, avenue or alley contrary to the provisions of this chapter shall be deemed a continuing nuisance and the same shall be abated by the police officers of the city and the cost of the abatement shall be assessed to the abutting lot, piece or parcel of land.

(1998 Code, § 12.0406)

EXCAVATIONS

§ 93.070 – PERMIT REQUIRED.

It shall be unlawful for any person, firm or corporation to tunnel under or make any excavation in any street, alley or other public place in the city without having obtained a permit as is herein

required, or without complying with the provisions of this chapter or in violation of or variance from the terms of any permit.

(1998 Code, § 12.0501); Penalty, see § 93.999.

§ 93.71 – APPLICATIONS.

Applications for the permits shall be made to the Finance Officer, and shall describe the location of the intended excavation or tunnel, the size thereof, the purpose therefore, and the person, firm or corporation doing the actual excavating work and the name of the person, firm or corporation for whom or which the work is being done, and shall contain an agreement that the applicant will comply with all ordinances and laws relating to the work to be done.

(1998 Code, § 12.0502)

§ 93.072 – FEES.

The fee for the permits shall be:

- (A) Excavation in asphalt or Portland cement concrete pavement or surface: \$10;
- (B) Excavation in oil treated street surface: \$10; and
- (C) Excavation in untreated or unimproved street or surface: \$10.

(1998 Code, § 12.0503)

§ 93.073 – DEPOSIT.

No permit shall be issued unless and until the applicant therefore has deposited with the City Treasurer a cash deposit in the sum of \$20, if no pavement is involved, and \$100 if the excavation is in a paved area, to ensure the proper restoration of the ground and laying of the pavement if any. From this deposit shall be deducted the expense to the city of relaying the surface of the ground or pavement and of making the refill if this is done by the city. The balance of the deposit shall be returned to the applicant without interest after the tunnel or excavation is completely refilled and the surface or pavement is restored.

(1998 Code, § 12.0504)

§ 93.074 – RESTORING SURFACE.

Any person, firm or corporation making any excavation or tunnel in or under any public street, alley or other public place in the city shall restore the surface to its original condition if there is no

pavement there. Refills shall be properly tamped down. Any opening in any paved or improved portion of a street shall be repaired and the surface relaid by the applicant, in compliance with the ordinances of the city and under the supervision of the Assistant Operations Manager.

(1998 Code, § 12.0505)

§ 93.075 – PROTECTIVE MEASURES.

- (A) It shall be the duty of every person cutting or making an excavation in or upon any public place, to place and maintain barriers and warning devices necessary for safety of the general public. Barriers, warning signs, lights and warning devices shall conform to the requirements of the City Council. Warning lights shall be electrical markers or flashers used to indicate a hazard to traffic from sunset of each day to sunrise of the next day.
- (B) Electrical markers or flashers shall emit light at sufficient intensity and frequency to be visible at a reasonable distance for safety. Reflectors or reflecting material may be used to replace and supplement light sources.
- (C) The permittee shall take appropriate measures to assure that during the performance of the excavation work, traffic conditions as near normal as possible shall be maintained at all times so as to minimize the inconvenience to the occupants of the adjoining property and to the general public.
- (D) When traffic conditions permit the Assistant Operations Manager may approve the closing of streets and alleys to all traffic for a period of time prescribed by him or her, if in his or her opinion it is necessary.

(1998 Code, § 12.0506)

§ 93.076 – RELOCATION OF UTILITIES.

The permittee shall not interfere with any existing facility without the written consent of the Operations Manager and the owner of the facility. If it becomes necessary to relocate an existing facility this shall be done by its owner. No facility owned by the city shall be moved to accommodate the permittee unless the cost of the work be borne by the permittee unless it makes other arrangements with the person owning the facility.

(1998 Code, § 12.0507)

§ 93.077 – BACKFILLING.

- (A) Fine material, free from lumps and stone, selected from the spoil shall be thoroughly compacted around and under the substructure to the upper level of the

substructure. Above the upper level of the substructure, backfill material shall be placed to the subgrade of the pavement in lifts consistent with the type of soil involved and the degree of consolidation specified by the City Council.

- (B) Broken pavement, large stones, roots and other debris shall not be used in the backfill. The backfill shall be done in a manner that will permit the restoration of the surface to a density condition not less than that existing prior to excavation unless otherwise specified.

(1998 Code, § 12.0508)

§ 93.078 – PROMPT COMPLETION OF WORK.

After an excavation is commenced, the permittee shall proceed with diligence and expedition all excavation work covered by the excavation permit and shall promptly complete the work and restore the street to its original condition, or as near as may be, so as not to obstruct the public place or travel thereon more than 48 hours unless City Council approval is obtained.

(1998 Code, § 12.0509)

§ 93.079 – EMERGENCY WORK.

When traffic conditions, the safety or convenience of the traveling public or the public interest require that the excavation work be performed as emergency work the Assistant Operations Manager shall have the power to require, at the time the permit is granted, that a crew of persons and adequate facilities be employed by the permittee 24 hours a day to the end that such excavation work may be completed as soon as possible. Nothing in this chapter shall be construed to prevent the making of the excavations as may be necessary for the preservation of life or property or for the location of trouble in conduit or pipe, for making repairs, provided that the person making the excavation shall apply to the Assistant Operations Manager for a permit on the first working day after the work is commenced.

(1998 Code, § 12.0510)

§ 93.080 – INSPECTIONS.

- (A) The Assistant Operations Manager shall make such inspections as are reasonably necessary in the enforcement of this chapter.

- (B) The Assistant Operations Manager shall have the authority to promulgate and cause to be enforced rules and regulations as may be reasonably necessary to enforce and carry out the intent of this chapter.

(1998 Code, § 12.0511)

SIDEWALKS

§ 93.090 – PERMITS REQUIRED.

No public sidewalk shall be repaired or installed by any person without first having a written permit from the city. Application for a sidewalk repair or installation permit shall be made on forms furnished by the city.

(1998 Code, § 12.0601)

§ 93.091 – APPLICATIONS.

Applications for a sidewalk repair or installation permit shall be made to the City Finance Officer, and shall describe the location of the intended repair or installation, the purpose therefore, and the person, firm or corporation doing the actual work and the name of the person, firm or corporation for whom or which the work is being done, and shall contain an agreement that the applicant will comply with all ordinances and laws relating to the work to be done.

(1998 Code, § 12.0602)

§ 93.092 – FEES.

- (A) The fee for the permit shall be as follows:
 - (1) Fifty lineal feet or less: \$10; and
 - (2) Each additional 50 feet or fraction thereof: \$5.
- (B) The permit shall cover only continuous construction and the work to be done as one continuous operation.

(1998 Code, § 12.0603)

§ 93.093 – PERMIT EXPIRATION.

A permit shall expire for work not started within 30 days or completed within 90 days after issuance of a permit, and a new permit shall be required before beginning or completing the work.

(1998 Code, § 12.0604)

§ 93.094 – GRADE AND ALIGNMENT STANDARDS.

Applicants shall follow the standard provisions herein set forth for sidewalk construction.

(1998 Code, § 12.0605)

§ 93.095 – VARIANCE FROM STANDARDS.

The City Engineer may authorize variances from standard sidewalk provision where no curb exists or when unusual topographical conditions, nature of existing construction or similar factors would make adherence to standard provision unreasonable.

(1998 Code, § 12.0606)

§ 93.096 – GRADE AND LINE REQUIRED.

No sidewalk shall be constructed in accordance with details and specifications as established from time to time by the City Council.

(1998 Code, § 12.0607)

§ 93.097 – CONSTRUCTION STANDARDS.

Sidewalk shall be constructed in accordance with details and specifications as established from time to time by the City Council.

(1998 Code, § 12.0608)

§ 93.098 – REQUIREMENTS FOR DISABLED.

Sidewalks shall comply with the following requirements to provide no barrier for disabled persons in wheelchairs and for blind persons.

- (A) All curb ramps shall be constructed or installed in accordance with design specifications per SDCL § 9-46-1.2.
- (B) The construction shall be done so as to be fully accessible by persons in wheelchairs and persons on crutches.

(1998 Code, § 12.0609)

§ 93.099 – REPAIR OF SIDEWALK BY ABUTTING OWNERS.

- (A) All owners or agents of owners with property abutting and fronting upon any street or alley within the corporate limits of the city are required to keep the public sidewalks immediately abutting their property in good order and repair.
- (B) Each owner shall be liable to the city for all losses to the city for damages to person or property of others caused by his or her failure or that of his or her agents to repair and keep in good order and reasonable safe conditions all the sidewalks abutting and fronting his or her property upon any street or alley within the corporate limits of the city.
 - (1) Minimum width: four feet;
 - (2) Beginning distance from property line: one foot; and
 - (3) Grade (slope): to follow a line sloping up and away from the top of the curb at a slope one-quarter inch per foot.

(1998 Code, § 12.0610)

§ 93.100 – NOTIFICATION FOR REPAIR BY ABUTTING OWNERS.

- (A) The city shall notify publicly or personally the owners that repairs are necessary to put the sidewalk in good order.
- (B) The owners shall, within 30 days after notification under supervision of the Assistant Operations Manager, complete the repair.
- (C) If the person fails to make the repairs, the city may repair the same and the owner shall be liable to the city for the cost of the repairs.

(1998 Code, § 12.0611)

§ 93.101 – INSPECTION OF WORK.

All work shall be subject to the inspection by the city, during construction and upon completion. The city shall be notified by permittee after forms are set and no further construction started until approval by the city.

(1998 Code, § 12.0612)

§ 93.102 – BARRICADES.

Any person, firm or corporation constructing or repairing sidewalk shall maintain suitable barricades to prevent injury of any person or vehicle by reason of the work; the barricades shall be protected by a light at nighttime.

(1998 Code, § 12.0613)

§ 93.999 – PENALTY.

- (A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.
- (B) Any person, firm or corporation violating any of the provisions of §§ 93.070 through 93.080 shall be fined not less than \$25 nor more than \$1500 for each offense, plus expense to restore the street to its original condition; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

(1998 Code, § 12.0512)

- (C) Any person, firm or corporation violating any of the provisions of §§ 93.090 through 93.102 shall be fined not less than \$25 nor more than \$500 for each offense, plus expense to restore the sidewalk to its original condition.

(1998 Code, § 12.0614)

CHAPTER 94: OPEN BURNING

§ 94.01 – OPEN BURNING.

- (A) Except as otherwise provided in this section, no person shall ignite or maintain, or cause or permit to be ignited or maintained, any open fire on public or private property outside any building. Salvage, demolition operations or disposal of waste materials by burning is prohibited.
- (B) Exceptions:
 - (1) Open fires may be set in the performance of official duties by the chief of fire protection or his designee when necessary for any of the following purposes:

- (a) For the abatement of a fire hazard which cannot be abated by other means; or
 - (b) For training in firefighting or for research in control of fires under supervision of the chief of fire protection or his designee; or
 - (c) In any emergency or other extraordinary circumstances when open burning is determined by the chief of fire protection to be in the public interest.
- (2) Fires may be used for cooking food, provided no smoke violation or other nuisance is created.
 - (3) Small fires may be set for recreational purposes, or for ceremonial occasions, provided that no smoke violation or nuisance is created.

The City's fire chief shall have authority to restrict the size, location and means of containment of such fires in the best interests of the public.

- (4) Compliance with the provisions of this section shall not exempt any person from any damages or liability which may result from such open burning, nor exempt any person from adherence to all applicable laws, ordinance and regulations and orders of the chief of fire protection and the state forester.
- (C) Any person violating any provision of this section shall be guilty of a Class 2 misdemeanor.

(1998 Code, § 6.0101) Penalty, see § 110.99.
(Amended: Ordinance No. 436, 08-03-15)

TITLE XI: BUSINESS REGULATIONS

Chapter

110: GENERAL LICENSING
111: HANDBILLS; DISTRIBUTION
112: SEXUALLY ORIENTED BUSINESSES

CHAPTER 110: GENERAL LICENSING

Section

- 110.01 – License required**
- 110.02 – How obtained**
- 110.03 – Expiration**
- 110.04 – When license may be revoked**
- 110.05 – Finance Officer to keep record**
- 110.06 – Issuance of license**

- 110.99 – Penalty**

§ 110.01 – LICENSE REQUIRED.

It shall be unlawful for any person, person's firm or corporation to engage in any trade, business or occupation within the corporate limits of the city for which a license is provided for in this title, without first having obtained the license as hereinafter provided; provided that the provisions of this chapter shall not apply to any public officer, who may in pursuance of legal process sell at public auction, any property of any kind whatsoever, nor shall the provisions of this chapter include or apply to persons engaged in the sale of farm products only.

(1998 Code, § 6.0101); Penalty, see § 110.99.

§ 110.02 – HOW OBTAINED.

Any person, persons, firm or corporation wishing to obtain a license to engage in any trade, business or occupation, as herein provided, shall pay to the City Finance Officer the amount provided by this chapter for the license applied for, who shall issue a receipt therefore, and shall make written application to the City Council stating the names of the person or persons, post office address or addresses, business, calling or vocation in which the person or persons desire to engage, the length of time for which the license is wanted, and the particular place at which the license is to be used, and upon the presentation of the application to the City Council, the City Council shall act upon the application, and if it shall deem the applicant a suitable and proper person to have the license, they shall cause the Finance Officer to issue the same, and attested by the corporation seal, and shall authorize the person to carry on the business, calling or vocation named in the

application; but if the application be refused, it shall be endorsed upon receipt by the Finance Officer, and he or she shall refund the money so paid by the applicant and take up the receipt which receipt when taken up shall be the Finance Officer's voucher for the money so refunded.

(1998 Code, § 6.0102)

§ 110.03 – EXPIRATION.

All annual licenses granted under the provisions of this chapter shall expire on December 31 next following the granting thereof, except as is herein otherwise provided, and shall not be granted for any sum less than the annual rate, and there shall be no rebate made on the termination of the calling, vocation or kind of business for which the license was issued.

(1998 Code, § 6.0103)

§ 110.04 – WHEN LICENSE MAY BE REVOKED.

- (A) The Council shall have power to cancel any license issued by the city for failure of the licensee to comply with any ordinance or regulation of the city or state law respecting the license or the manner of exercise thereof or for other good cause, after hearing upon notice to the licensee.
- (B) Notice of hearing before the Council for the revocation of any license shall be given by mailing to the licensee, by certified mail, a notice of the hearing upon the licensee at least one week prior to the time set for the hearing.

(1998 Code, § 6.0104)

§ 110.05 – FINANCE OFFICER TO KEEP RECORD.

The Finance Officer shall keep a record of 11 licenses issued by the City Council stating when and to whom issued, for what purpose and for what length of time issued, and the amount of money paid for the license, and the place where the business is to be carried on.

(1998 Code, § 6.0105)

§ 110.06 – ISSUANCE OF LICENSE.

Except as otherwise provided, all licenses shall be issued by the City Finance Officer, if the issuance of the license be approved by the licensing authority and the applicant shall have complied

with all requirements for issuance of the license. Unless otherwise provided, all licenses shall be signed by the Finance Officer and shall have affixed thereto the official seal of the city.

(1998 Code, § 6.0106)

§ 110.99 – PENALTY.

Any person, persons, firm or corporation who shall violate any of the provisions of this chapter, or who shall engage in any of the callings, vocations or kinds of business mentioned in this chapter, without first having received a license therefor, as specified in this chapter, shall upon conviction thereof, be fined not more than \$500, or be imprisoned for a period of not more than 30 days, or be punished by both the fine and imprisonment.

(1998 Code, § 6.0107)

CHAPTER 111: HANDBILLS; DISTRIBUTION

Section

111.01 – Definitions

111.02 – Exemption for official government notices, mail and newspaper

111.03 – Restricted in public places

111.04 – Placing on vehicles

111.05 – Depositing on uninhabited or vacant premises

111.06 – Prohibited where property posted

111.07 – Inhabited private premises

§ 111.01 – DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

HANDBILL. Any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet or any other printed or otherwise reproduced original or copies of any matter of literature.

NEWSPAPER. Any newspaper of general circulation as defined by general law, any newspaper duly entered with the post office department of the United States, in accordance with federal statute or regulation and any newspaper filed and recorded with any recording officer as provided by general law; and in addition thereto shall mean and include any periodical or current magazine regularly published with not less than four

issues per year, and sold to the public, and shall mean and include any other copyrighted material.

VEHICLE. Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks.

(1998 Code, § 16.0101)

§ 111.02 – EXEMPTION FOR OFFICIAL GOVERNMENTAL NOTICES, MAIL AND NEWSPAPER.

The provisions of this chapter shall not apply to the posting of official government notices, and distribution of mail by the United States, nor to newspaper, except that newspapers shall be placed on private property in a manner so as to prevent their being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

(1998 Code, § 16.0102)

§ 111.03 – RESTRICTED IN PUBLIC PLACES.

It shall be unlawful for any person to sell any handbill in any public place; except that a handbill may be personally delivered to any person willing to accept the same.

(1998 Code, § 16.0103); Penalty, see § 10.99.

§ 111.04 – PLACING ON VEHICLES.

No person shall throw or deposit any handbill in or upon any vehicle.

(1998 Code, § 16.0104); Penalty, see § 10.99.

§ 111.05 – DEPOSITING ON UNINHABITED OR VACANT PREMISES.

It shall be unlawful for any person to throw or deposit any handbill in or upon any private premises which is uninhabited or vacant.

(1998 Code, § 16.0105); Penalty, see § 10.99.

§ 111.06 – PROHIBITED WHERE PROPERLY POSTED.

No person shall throw, deposit or distribute any handbill upon any private premises, if requested by anyone thereon not to do so, or if there is placed on the premises a sign bearing the words: “No

Trespassing”, “No Peddlers or Agents”, “No Advertisement” or any similar notice, indicating in any manner that the occupants of the premises do not wish to have their right of privacy disturbed, or to have any handbills left upon the premises.

(1998 Code, § 16.0106)

§ 111.07 – INHABITED PRIVATE PREMISES.

No person shall throw, deposit or distribute any handbill in or upon private premises which are inhabited, except by handing or transmitting any such handbill directly to the owner, occupant or other person than present in or upon the private premises. Provided, however, that in case of inhabited private premises which are not posted, the person, unless requested by anyone upon the premises not to do so, may place or deposit any such handbill in or upon the premises if the handbill is so placed or deposited as to secure or prevent the handbill is so placed or deposited as to secure or prevent the handbill from being blown or drifted about the premises or sidewalks, streets or other public places, and except that mailboxes may not be so used when so prohibited by federal postal law or regulation.

(1998 Code, § 16.0107); Penalty, see § 10.99.

CHAPTER 112: SEXUALLY ORIENTED BUSINESSES

Section

- 112.01 – Purpose and findings**
- 112.02 – Definitions**
- 112.03 – Classification**
- 112.04 – License required**
- 112.05 – Issuance of license**
- 112.06 – Fees**
- 112.07 – Inspection**
- 112.08 – Expiration of license**
- 112.09 – Suspension**
- 112.10 – Revocation**
- 112.11 – Hearing; denial, revocation and suspension; appeal**
- 112.12 – Transfer of license**
- 112.13 – Hours of operation**
- 112.14 – Exhibition of sexually explicit films or videos**
- 112.15 – Loitering, exterior lighting, visibility and monitoring requirements**
- 112.16 – Applicability of chapter to existing businesses**
- 112.17 – Prohibited activities**
- 112.18 – Scienter required to prove violations or business licensee liability**

112.19 – Failure of the city to meet deadline not to risk applicant/licensee right

112.20 – Location of sexually oriented businesses

112.21 – Conflicting code provisions

112.99 – Penalty

§ 112.01 – PURPOSE AND FINDINGS.

- (A) Purpose. It is the purpose of this chapter to regulate sexually oriented businesses in order to promote the health, safety and general welfare of the citizens of the city, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the city. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this chapter to condone or legitimize the distribution of obscene material.
- (B) Findings. Based on evidence of the adverse secondary effect of adult uses presented in hearings and in reports made available to the Board, and on finds, interpretations and narrowing constructions incorporated in the cases of *City of Littleton v. Z.J. Gifts D-4, L.L.C.*, 124 S. Ct. 2219 (June 7, 2004); *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *Pap's A.M. V. City of Erie*, 529 U.S. 277 (2000); *City of Kenton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theaters*, 426 U.S. 50 (1976); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *California v. LaRue*, 409 U.S. 109 (1972); *Heideman v. South Salt Lake City*, 342 F.3d 1182 (10th Cir. 2003); *Farkas v. Miller*, 151 F.3d 900 (8th Cir. 1998); *United States v. Evans*, 272 F.3d 1069 (8th Cir. 2002); *United States v. Mueller*, 663 F.2d 811 (8th Cir. 1981); *BZAPS, Inc. v. City of Mankato*, 268 F.3d 603 (8th Cir. 2001); *PHE, Inc. v. State*, 2004 Miss. LEXIS 269 (2004); *Yorko v. State*, 690 S.W.2d 260 (Tex. 1985); *SOB, Inc. v. County of Benton*, 317 F.3d 856 (8th Cir. 2003); *United States v. Frederickson*, 846 F.2d 517 (1988); *ILQ Invs. v. City of Rochester*, 25 F.3d 1413 (8th Cir. 1994); *Ctr. for Fair Public Policy v. Maricopa County*, 336 F.4d 1153 (9th Cir. 2003); *North Avenue Novelties, Inc. v. City of Chicago*, 88 F.3d 441 (1996); *World Wide Video of Washington, Inc. v. City of Spokane*, 386 F.3d 1186 (9th Cir. 2004); *Lady J. Lingerie, Inc. v. City of Jacksonville*, 176 F.3d 1358 (11th Cir. 1999); and based upon reports concerning secondary effects occurring in and around sexually oriented businesses, including, but not limited to, Austin, Texas - 1986; Indianapolis, Indiana - 1984; Garden Grove, California - 1991; Houston,

Texas - 1983, 1997; Phoenix, Arizona - 1979, 1995-98; Chattanooga, Tennessee - 1999-2003; Minneapolis, Minnesota - 1980; Los Angeles, California - 1977; Whittier, California - 1978; Spokane, Washington - 2001; St. Cloud, Minnesota - 1994; Littleton, Colorado - 2004; Oklahoma City, Oklahoma - 1986; Dallas, Texas - 1997; Greensboro, North Carolina - 2003; Amarillo, Texas - 1977; Roncek, McCleary Expert Reports - 2004; New York, New York Times Square - 1994; and the Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota), the Board finds:

- (1) Sexually oriented businesses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on property values, urban blight, litter and sexual assault and exploitation;
- (2) Sexual acts, including masturbation, oral and anal sex, sometimes occur inside the premises of or in the parking lot of unregulated sexually oriented businesses, including, but not limited to, those which provide private or semi-private booths, rooms, or cubicles for viewing films, video or live sexually explicit shows, which acts pose a risk to public health through the spread of sexually transmitted diseases;
- (3) Sexually oriented businesses should be separated from sensitive land uses to minimize the impact of their secondary effects upon the uses, and should be separated from other sexually oriented businesses, to minimize the secondary effects associated with the uses and to prevent an unnecessary concentration of sexually oriented businesses in one area; and
- (4) Each of the foregoing negative secondary effects constitutes a harm which the city has a substantial government interest in preventing and/or abating, and the substantial interest exists independent of any comparative analysis between sexually oriented and non-sexually oriented businesses.

(Ord. 364, passed 12-5-2005)

§ 112.02 – DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ADULT ARCADE. Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are characterized by their emphasis upon matter exhibiting “specified sexual activities” or specified “anatomical areas”.

ADULT BOOKSTORE or ADULT VIDEO STORE. A commercial establishment which, as one of its principal purposes, offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides or other visual representations which are characterized by their emphasis upon the display of “specified sexual activities” or “specified anatomical areas”.

PRINCIPAL PURPOSE. The commercial establishment:

- (1) Has a substantial portion of its displayed merchandise which consists of those items;
- (2) Has a substantial portion of the wholesale value of its displayed merchandise which consists of those items;
- (3) Has a substantial portion of the retail value of its displayed merchandise which consists of those items;
- (4) Derives a substantial portion of its revenues from the sale or rental, for any form of consideration of those items; or
- (5) Maintains a substantial section of its interior business space for the sale or rental of those items.

ADULT CABARET. A nightclub, bar, juice bar, restaurant, bottle club or similar commercial establishment, regardless of whether alcoholic beverages are served, which regularly features:

- (1) Persons who appear nude or semi-nude;
- (2) Live performances which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities”; or
- (3) Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the exhibition or display of “specified sexual activities” or “specified anatomical areas”.

ADULT MOTEL. A motel, hotel or similar commercial establishment which:

- (1) Offers accommodations to the public for any form of consideration; provides patrons with closed- circuit television transmissions, films, motions pictures, video cassettes, other photographic reproductions, or live performances which are characterized by the display of “specified sexual activities” or “specified anatomical areas”; and which advertises the availability of the material by means of a sign visible from the public right-of-way, or by means of any on or off-premises advertising, including but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television;
- (2) Offers a sleeping room for rent for a period of time that is less than ten hours; or
- (3) Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten hours.

ADULT MOTION PICTURE THEATER. A commercial establishment where films, motion pictures, videocassettes, slides or similar photographic reproductions which are characterized by their emphasis upon the display of “specified sexual activities” or “specified anatomical areas” are regularly shown to more than five persons for any form of consideration.

ART MUSEUM and/or *ART GALLERY.* Any structure where paintings, sculptures, pottery, lithograph and anything of artistic expression is shown, excluding live models in a state of nudity or semi-nudity.

BOARD. The Board of the City of Centerville, South Dakota.

CHARACTERIZED. To describe the essential character or quality of an item. As applied in this chapter, no business shall be classified as a sexually oriented business by virtue of showing, selling or renting materials rated NC-17 or R by the Motion Picture Association of America.

CITY. The City of Centerville, South Dakota.

EMPLOY, EMPLOYEE and *EMPLOYMENT.* Any person who performs any service on the premises of a sexually oriented business, on a full time, part time or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise. *EMPLOYEE* does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

ESTABLISH or *ESTABLISHMENT.* Includes any of the following:

- (1) The opening or commencement of any sexually oriented business as a new business;
- (2) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business; and/or
- (3) The addition of any sexually oriented business to any other existing sexually oriented business.

FINANCE OFFICER. The Finance Officer for the City of Centerville.

HEARING BODY. The Board of the City of Centerville.

INFLUENTIAL INTEREST. Any of the following: the actual power, directly or indirectly, to control the operation, management or policies of a business or entity; ownership of a financial interest of 35% or more of a business or of any class of voting securities of a business; or holding an office (e.g., President, Vice President, Secretary, Treasurer and the like) or directorship in a legal entity which operates the sexually oriented business.

LICENSED DAY-CARE CENTER. A facility licensed by the State of South Dakota, whether situated within the city or not, that provides care, training, education, custody, treatment or supervision for more than 12 children under 14 years of age, where the children are not related by blood, marriage or adoption to the owner or operator of the facility, for less than 24 hours a day, regardless of whether or not the facility is operated for a profit or charges for the services it offers.

LICENSEE. A person, whose name a license to operate a sexually oriented business has been issued, as well as the individual or individuals listed as an applicant on the application for a sexually oriented business license. In the case of an “employee”, it shall mean the person whose name the sexually oriented business employee license has been issued.

NUDITY or *STATE OF NUDITY.* The showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple and areola.

OPERATE or *CAUSE TO OPERATE.* To cause to function or to put or keep in a state of doing business. *OPERATOR* means any person on the premises of a sexually oriented business who causes the business to function or who puts or keeps in operation the business or who is authorized to manage the business or exercise overall operational control of the business premises. A person may be found to be *OPERATING* or

CAUSING TO BE OPERATED a sexually oriented business whether or not that person is an owner, part owner or licensee of the business.

PERSON. Individual, proprietorship, partnership, corporation, association or other legal entity.

PREMISES. The real property upon which the sexually oriented business is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the sexually oriented business, the grounds, private walkways and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the licensee, as described in the application for a business license pursuant to § 112.04.

REGULARLY. The consistent and repeated doing of the act so described.

SEMI-NUDE MODEL STUDIO. A place where persons regularly appear in a state of semi-nudity for money or any form of consideration in order to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons.

This definition does not apply to any place where persons appearing in a state of semi-nudity did so in a modeling class operated:

- (1) By a college, junior college or university supported entirely or partly by taxation;
- (2) By a private college or university which maintains and operates educational programs in which credits are transferable to college, junior college or university supported entirely or partly by taxation; or
- (3) In a structure:
 - (a) Which has no sign visible from the exterior of the structure and no other advertising that indicates a semi-nude person is available for viewing; and
 - (b) Where, in order to participate in a class a student must enroll at least three days in advance of the class.

SEXUAL DEVICE. Any three-dimensional object designed and marketed for stimulation of the male or female human genital organ or anus or for sadomasochistic use or abuse of oneself or others and shall include devices such as dildos, vibrators, penis pumps and physical representation of the human genital organs. Nothing in this definition shall be construed to include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

SEXUAL DEVISE SHOP. A commercial establishment that regularly features sexual devices. Nothing in this definition shall be construed to include any pharmacy, drug store, medical clinic or any establishment primarily dedicated to providing medical or healthcare products or services, nor shall this definition be construed to include commercial establishments which do not restrict access to any portion of their premises by reason of age.

SEXUAL ENCOUNTER CENTER. A business or commercial enterprise that, as one of its principal business purposes, purports to offer for any form of consideration, physical contact in a form of wrestling or tumbling between persons of the opposite sex when one or more of the persons is semi-nude.

SEXUALLY ORIENTED BUSINESS. An “adult bookstore or adult video store”, an “adult cabaret”, an “adult motel”, an “adult motion picture theater”, a “semi-nude model studio” or a “sexual encounter center”.

SPECIFIED ANATOMICAL AREAS. Includes:

- (1) Less than completely and opaquely covered: human genitals, pubic region; buttock; and female breast below a point immediately above the top of the areola; and
- (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED CRIMINAL ACTIVITY. Any of the following specified crimes for which less than five years elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date:

- (1) A sex crime as defined in SDCL § 22-24B-1;
- (2) Prostitution or promotion of prostitution, as defined in SDCL §§ 22-23-1 and 22-23-2;
- (3) An obscenity or public indecency offense as defined in SDCL Chapter 22-24;
- (4) A controlled substance offense as defined in SDCL § 22-42-2;
- (5) Attempt, conspiracy or solicitation to commit any of the foregoing offenses; or

- (6) Any offense in another jurisdiction that, had the predicate act(s) been committed in the state, would have constituted any of the foregoing offenses.

SPECIFIED SEXUAL ACTIVITY. Any of the following:

- (1) Intercourse, oral copulation, masturbation or sodomy; or
- (2) Excretory functions as a part of or in connection with any of the activities described in division (2) above.

SUBSTANTIAL. At least 35% of the item(s) so modified.

TRANSFER OF OWNERSHIP OR CONTROL. Of a sexually oriented business, shall mean any of the following:

- (1) The sale, lease or sublease of the business;
- (2) The transfer of securities which constitute an influential interest in the business, whether by sale, exchange or similar means; or
- (3) The establishment of a trust, give or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

VIEWING ROOM. The room, booth or area where a patron of sexually oriented business would ordinarily be positioned while watching a film, videocassette or other video reproduction.

(Ord. 364, passed 12-5-2005)

§ 112.03 – CLASSIFICATION.

The classifications for sexually oriented businesses shall be as follows:

- (A) Adult bookstores or adult video stores;
- (B) Adult cabarets;
- (C) Adult motels;
- (D) Adult motion picture theaters;
- (E) Semi-nude model studios;

- (F) Sexual device shops; and
- (F) Sexual encounter centers.

(Ord. 364, passed 12-5-2005)

§ 112.04 – LICENSE REQUIRED.

- (A) It shall be unlawful for any person to operate a sexually oriented business in the city without a valid sexually oriented business license.
- (B) It shall be unlawful for any person to be an “employee” as defined in this chapter, of a sexually oriented business in the city without a valid sexually oriented business employee license.
- (C) An applicant for a sexually oriented business license or sexually oriented business employee license shall file in person at the office of the Finance Officer of the city a completed application made on a form provided by the Finance Officer’s Office. The application shall be signed as required by division (E) below, and shall be notarized. An application shall be considered complete when it contains, for each person required to sign the application, the information and/or times required in divisions (C)(1) through (7) below, accompanied by the appropriate fee identified in § 112.06:
 - (1) The applicant’s full true name and any other names used by the applicants in the preceding five years;
 - (2) Current business address or another mailing address of the applicant;
 - (3) Written proof of age, in the form of a driver’s license or a copy of a birth certificate accompanied by a picture identification document issued by a governmental agency;
 - (4) If the application is for a sexually oriented business license, the business name, location, legal description, mailing address and phone number of the sexually oriented business;
 - (5) If the application is for a sexually oriented business license, the name and business address of the statutory agent or other agent authorized to receive service of process;
 - (6) A statement of whether an applicant has been convicted of or has pled guilty or nolo contendere to a specified criminal activity as defined in this chapter, and if so, each specified criminal activity involved, including the date, place

and jurisdiction of each as well as the dates of conviction and release from confinement, where applicable; and

- (7) A statement of whether any sexually oriented business in which an applicant has had an influential interest, has, in the previous five years (and at a time during which the applicant had the influential interest):
 - (a) Been declared by a court of law to be a nuisance; or
 - (b) Been subject to a court order of closure or padlocking.
 - (8) The information provided pursuant to divisions (C)(1) through (7) above shall be supplemented in writing by certified mail, return receipt requested, to the Finance Officer's Office within ten working days of a change of circumstances which would render the information originally submitted false or incomplete.
- (D) An application for a sexually oriented business license shall be accompanied by a legal description of the property where the business is located and a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches. Applicants who are required to comply with §§ 112.14 and 112.18 shall submit a diagram indicating that the interior configuration meets the requirements of those sections.
- (E) If a person who wishes to operate a sexually oriented business is an individual, he or she shall sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each person with an influential interest in the business shall sign the application for a license as applicant. Each applicant must be qualified under § 112.05, and each applicant shall be considered a licensee if a license is granted.
- (F) The information provided by an applicant in connection with an application for a license under this chapter shall be maintained by the city's Finance Officer on a confidential basis, and that information may be disclosed only as may be required, and only to the extent required, by court order.

(Ord. 364, passed 12-5-2005); Penalty, see § 112.99.

§ 112.05 – ISSUANCE OF LICENSE.

- (A) Upon the filing of a completed application under § 112.04(C) for a sexually oriented business license, the Finance Officer shall immediately issue a temporary license to the applicant, which temporary license shall expire upon the final decision of the city to deny or grant an annual license. Within 20 days of the filing date of a completed sexually oriented business license application, the Finance Officer shall issue a license to the applicant or issue to the applicant a letter of intent to deny the application. The Finance Officer shall issue a license unless:
- (1) An applicant is less than 18 years of age;
 - (2) An applicant has failed to provide information as required by § 112.04 for issuance of a license or has falsely answered a question or request for information on the application form;
 - (3) The license application fee required by this chapter has not been paid;
 - (4) The sexually oriented business, as defined herein, is not in compliance with the interior configuration requirements of this chapter or is not in compliance with locational requirements of this chapter or any other part of the ordinances of the city, or the ordinances of the county or the state statutes;
 - (5) Any sexually oriented business in which the applicant has had an influential interest, has, in the previous five years (and at a time during which the applicant had the influential interest):
 - (a) Been declared by a court of law to be a nuisance; or
 - (b) Been subject to an order of closure or padlocking.
 - (6) An applicant has been convicted of or pled guilty or nolo contendere to a specified criminal activity, as defined in this chapter.
- (B) Upon the filing of a completed application under § 112.04(C) for a sexually oriented business employee license, the Finance Officer shall immediately issue a temporary license to the applicant, which temporary license shall expire upon the final decision of the city to deny or grant an annual license. Within 20 days of the filing date of a completed sexually oriented business employee license application, the Finance Officer shall either issue a license or issue a written notice of intent to deny a license to the applicant. The Finance Officer shall approve the issuance of a license, unless:
- (1) The applicant is less than 18 years of age;

- (2) The applicant has failed to provide information as required by § 112.04 for issuance of a license or has falsely answered a question or request for information on the application form;
 - (3) The license application fee required by this chapter has not been paid;
 - (4) Any sexually oriented business in which the applicant has had an influential interest, has in the previous five years (and at a time during which the applicant had the influential interest):
 - (a) Been declared by a court of law to be a nuisance; or
 - (b) Been subject to an order of closure or padlocking.
 - (5) The applicant has been convicted of or pled guilty or nolo contendere to a specified criminal activity, as defined in this chapter.
- (C) The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the number of the license issued to the licensee(s), the expiration date, and, if the license is for a sexually oriented business, the address of the sexually oriented business. The sexually oriented business license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be read at any time. A sexually oriented business employee shall keep the employee's license on his or her person or on the premises where the licensee is when working or performing.

(Ord. 364, passed 12-5-2005)

§ 112.06 – FEES.

The initial license and annual renewal fees for sexually oriented business licenses and sexually oriented business employee licenses shall be as follows: \$100 for the initial fee for a sexually oriented business license and \$50 for annual renewal; \$50 for the initial sexually oriented business employee license and \$25 for annual renewal.

(Ord. 364, passed 12-5-2005)

§ 112.07 – INSPECTION.

- (A) Sexually oriented businesses and sexually oriented business employees shall permit any duly acting law enforcement officer, including, but not limited to, the Sheriff of the county, the County State's Attorney, and his or her deputy and/or agent to inspect, from time to time on an occasional basis, the portions of the

sexually oriented business premises where patrons are permitted, for the purpose of ensuring compliance with the specific regulations of this chapter, during those times when the sexually oriented business is occupied by patrons or is open to the public. This section shall be narrowly construed by the city to authorize reasonable inspection of the licensed premises pursuant to this chapter, but not to authorizing a harassing or excessive pattern of inspections.

- (B) The provisions of this section do not apply to areas of an adult motel which are currently being rented by a customer for use as a permanent or temporary habitation.

(Ord. 364, passed 12-5-2005)

§ 112.08 – EXPIRATION OF LICENSE.

- (A) Each license shall remain valid for a period of one calendar year from the date of issuance unless otherwise suspended or revoked. The license may be renewed only by making applications and payment of a fee as provided in §§ 112.04 and 112.06.
- (B) Application for renewal should be made pursuant to the procedures set forth in § 112.04 at least 90 days before the expiration date, and when made less than 90 days before the expiration date, the expiration of the license will not be affected.

(Ord. 364, passed 12-5-2005)

§ 112.09 – SUSPENSION.

- (A) The city shall issue a written letter of intent to suspend a sexually oriented business license for a period not to exceed 30 days if the sexually oriented business licensee has knowingly violated this chapter or has knowingly allowed an employee to violate this chapter.
- (B) The city shall issue a written letter of intent to suspend a sexually oriented business employee license if the employee has knowingly violated this chapter.

(Ord. 364, passed 12-5-2005)

§ 112.10 – REVOCATION.

- (A) The city shall issue a letter of intent to revoke a sexually oriented business license or a sexually oriented business employee license, as applicable, if the licensee knowingly violates this chapter or has knowingly allowed an employee to violate this chapter and the licensee's license has been suspended within the previous 12-month period.
- (B) The city shall issue a written intent to revoke a sexually oriented business license and/or a sexually oriented business employee license, as applicable, if:
 - (1) The licensee has knowingly given false information in the application for the sexually oriented business license;
 - (2) The licensee has knowingly or recklessly engaged in or allowed possession, use or sale of controlled substance on the premises;
 - (3) The licensee has knowingly or recklessly engaged in or allowed prostitution on the premises;
 - (4) The licensee knowingly or recklessly operated the sexually oriented business during a period of time when the license was finally suspended or revoked; or
 - (5) The licensee has knowingly or recklessly engaged in or allowed any specified sexual activity to occur in or on the licensed premises.
- (C) The fact that any relevant conviction is being appealed shall have no effect on the revocation of the license, provided that, if any conviction which serves as a basis of a license revocation is overturned or reversed on appeal, that conviction shall be treated as null and of no effect for revocation purposes.
- (D) When, after the notice and hearing procedure described in § 112.11, the Board revokes a license, the revocation shall continue for two years and the licensee shall not be issued a sexually oriented business license or sexually oriented business employee license for two years from the date revocation becomes effective.

(Ord. 364, passed 12-5-2005)

§ 112.11 – HEARING; DENIAL, REVOCATION AND SUSPENSION; APPEAL.

- (A) When the Finance Officer issues a written notice of intent to deny, suspend or revoke a license, the Finance Officer shall immediately send the notice, which shall include the specific grounds under this chapter for that action, to the applicant or license (respondent) by personal delivery or certified mail. The notice

shall be directed to the most current business address or other mailing address on file with the Finance Officer for the respondent. The notice shall specify a date, not less than ten days nor more than 20 days after the date the notice is issued, on which the Board shall conduct a hearing on the Finance Officer's intent to deny, suspend or revoke the license.

- (1) At the hearing, the respondent shall have the opportunity to present all of respondent's arguments and to be represented by counsel, present evidence and witnesses on his or her behalf, and cross-examine any of the Finance Officer's witnesses. The Finance Officer shall also be represented by counsel, and shall bear the burden of proving the grounds for denying, suspending or revoking the license. The hearing shall take no longer than two days, unless extended at the request of the respondent to meet the requirements of due process and proper administration of justice. The Board shall issue a written decision, including specific reasons for the decision pursuant to this chapter, to the respondent within five days after the hearing.
 - (2) If the decision is to deny, suspend or revoke the license, the decision shall not become effective until the thirtieth day after it is rendered, and the decision shall include a statement advising the respondent of the right to appeal the decision to a court of competent jurisdiction. If the Board's decision finds that no grounds exist for denial, suspension or revocation of the license, the Board shall, contemporaneously with the issuance of the decision, order the Finance Officer to immediately withdraw the intent to deny, suspend or revoke the license and to notify the respondent in writing by certified mail of the action. If the Respondent is not yet licensed, the Finance Officer shall contemporaneously therewith issue the license to the applicant.
- (B) If any court action challenging the Board's decision is initiated, the Board shall prepare and transmit to the court a transcript of the hearing within ten days after receiving written notice of the filing of the court action. The Board shall consent to expedited briefing and/or disposition of the action, shall comply with any expedited schedule set by the court, and shall facilitate prompt judicial review of the proceedings. The following shall apply to any sexually oriented business that is in operation as of the effective date of this chapter: upon the filing of any court action to appeal, challenge, restrain or otherwise enjoin the city's enforcement of the denial, suspension or revocation, the city shall immediately issue the respondent a provisional license. The provisional license shall allow the respondent to continue operation of the sexually oriented business or to continue employment as a sexually oriented business employee and will expire upon the court's entry of a judgment on the respondent's appeal or other action to restrain or otherwise enjoin the city's enforcement.

(Ord. 364, passed 12-5-2005)

§ 112.12 – TRANSFER OF LICENSE.

A licensee shall not transfer his or her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the sexually oriented business license application.

(Ord. 364, passed 12-5-2005)

§ 112.13 – HOURS OF OPERATION.

No sexually oriented business shall be or remain open for business between 2:00 a.m. and 6:00 a.m. on any day.

(Ord. 364, passed 12-5-2005); Penalty, see § 112.99.

§ 112.14 – EXHIBITION OF SEXUALLY EXPLICIT FILMS OR VIDEOS.

- (A) A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than 150 square feet of floor space, a film, video cassette or other video reproduction characterized by an emphasis on the display of specified sexual activities or specified anatomical areas shall comply with the following requirements.
 - (1) Each application for a sexually oriented business license shall contain a diagram of the premises showing the location of all operator's stations, viewing rooms, overhead lighting fixtures, video cameras and monitors installed for monitoring purposes and restrooms, and shall designate all portions of the premises in which patrons will not be permitted. Restrooms shall not contain video reproduction equipment. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches. The Finance Officer may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

- (2) It shall be the duty of the operator, and of any employees present on the premises, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to division (A)(1) above.
- (3) The interior premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five-foot candles as measured at the floor level. It shall be the duty of the operator, and of any employees present on the premises, to ensure that the illumination described above is maintained at all times that the premises is occupied by patrons or open for business.
- (4) It shall be the duty of the operator, and of any employees present on the premises, to ensure that no sexual activity occurs in or on the licensed premises.
- (5) It shall be the duty of the operator to post conspicuous signs in well-lighted entry areas of the business state all of the following:
 - (a) That the occupancy of viewing rooms is limited to one person;
 - (b) That sexual activity on the premises is prohibited;
 - (c) That the making of openings between viewing rooms is prohibited;
 - (d) That violators will be required to leave the premises; and/or
 - (e) That violations of divisions (A)(2), (3) and (4) are unlawful.
- (6) It shall be the duty of the operator to enforce the regulations articulated in divisions (A)(5)(a) through (d) above.
- (7) The interior of the premises shall be configured in a manner so that there is an unobstructed view from the operator's station of every area of the premises, including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose. An operator's station shall not exceed 32 square feet of the floor area. If the premises has two or more operator's stations designated, then the interior of the premises shall be configured in a manner so that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the operator's stations. The view required in this paragraph must be by direct line of sight from the operator's station. It is the duty of the operator to ensure that at least one employee is

on duty and situated in an operator's station at all times that any patron is in the area monitored by direct line of sight from that operator's station. It shall be the duty of the operator, and it shall also be the duty of any employees present on the premises, to ensure that the view area specified in this paragraph remains unobstructed by any doors, curtains, walls, merchandise, display racks or other materials or enclosures at all times that any patron is present on the premises.

- (B) It shall be unlawful for a person having a duty under this section to knowingly fail to fulfill that duty.

(Ord. 364, passed 12-5-2005); Penalty, see § 112.99.

§ 112.15 – LOITERING, EXTERIOR LIGHTING, VISIBILITY AND MONITORING REQUIREMENTS.

- (A) It shall be the duty of the operator of a sexually oriented business to: post conspicuous signs stating that no loitering is permitted on the property; designate one or more employees to monitor the activities of persons on the property by visually inspecting the property at least once every 90 minutes or inspecting the property by use of video cameras and monitors; and provide lighting of the exterior premises to provide for visual inspection or video monitoring to prohibit loitering. If used, video cameras and monitors shall operate continuously at all times that the premises are open for business. The monitors shall be installed within an operator's station.
- (B) It shall be unlawful for the person having a duty under this section to knowingly fail to fulfill that duty.
- (C) No sexually oriented business shall erect a fence, wall or other barrier that prevents any portion of the parking lot(s) for the establishment from being visible from a public right-of-way.

(Ord. 364, passed 12-5-2005); Penalty, see § 112.99.

§ 112.16 – APPLICABILITY OF CHAPTER TO EXISTING BUSINESSES.

All existing sexually oriented businesses and sexually oriented business employees are hereby granted a de facto temporary license to continue operation or employment for a period of 90 days following the effective date of this chapter. By the end of the 90 days, all sexually oriented businesses and sexually oriented business employees must conform to and abide by the requirements of this chapter.

(Ord. 364, passed 12-5-2005); Penalty, see § 112.99.

§ 112.17 – PROHIBITED ACTIVITIES.

It is unlawful for a sexually oriented business to knowingly violate the following regulations or to knowingly allow an employee or any other person to violate the following regulations.

- (A) It shall be a violation of this chapter for a patron, employee or any other person to knowingly or intentionally, in a sexually oriented business, appear in a state of nudity, regardless of whether the public nudity is expressive in nature.
- (B) It shall be a violation of this chapter for a person to knowingly or intentionally, in a sexually oriented business, appear in a semi-nude condition unless the person is an employee who, while semi-nude, remains at least six feet from any patron or customer on a stage at least 18 inches from the floor in a room of at least 800 square feet.
- (C) It shall be a violation of this chapter for any employee who regularly appears semi-nude in a sexually oriented business to knowingly or intentionally touch a customer or the clothing of a customer on the premises of a sexually oriented business.
- (D) It shall be a violation of this chapter for any person to sell, use or consume alcoholic beverages on the premises of a sexually oriented business.
- (E) A sign in a form to be prescribed by the Finance Officer and summarizing the provisions of divisions (A), (B), (C) and (D) above, shall be posted near the entrance of the sexually oriented business in a manner so as to be clearly visible to patrons upon entry.

(Ord. 364, passed 12-5-2005); Penalty, see § 112.99.

§ 112.18 – SCIENTER REQUIRED TO PROVE VIOLATIONS OR BUSINESS LICENSEE LIABILITY.

This chapter does not impose strict liability. Unless a culpable mental state is otherwise specified herein, a showing of a knowing or reckless mental state is necessary to establish a violation of a provision of this chapter. Notwithstanding anything to the contrary, for the purposes of this chapter, an act by an employee that constitutes grounds for suspension or revocation of that employee's license shall be imputed to the sexually oriented business licensee for purposes of finding a violation of this chapter, or for purposes of license denial, suspension or revocation, only if an officer, director or general partner, or a person who managed, supervised or controlled the operation of the business premises, knowingly or recklessly allowed the act to occur on the

premises. It shall be a defense to liability that the person to whom liability was imputed was powerless to prevent the act.

(Ord. 364, passed 12-5-2005)

§ 112.19 – FAILURE OF THE CITY TO MEET DEADLINE NOT TO RISK APPLICANT/LICENSEE RIGHT.

In the event that a city official is required to take an act or do a thing pursuant to this chapter within a prescribed time, and fails to take the act or do the thing within the time prescribed, the failure shall not prevent the exercise of constitutional rights of an applicant or licensee. If the act required of the city official under this chapter, and not completed in the time prescribed, includes approval of condition(s) necessary for approval by the city of an applicant or licensee's application for sexually oriented business license or a sexually oriented business employee's license (including a renewal), the license shall be deemed granted and the business or employee allowed to commence operation or employment the day after the deadline for the city's action has passed.

(Ord. 364, passed 12-5-2005)

§ 112.20 – LOCATION OF SEXUALLY ORIENTED BUSINESSES.

- (A) Sexually oriented businesses shall not be required to obtain a conditional use permit or special use permit.
- (B) The following shall apply only to sexually oriented businesses not established prior to the effective date of this chapter: it shall be unlawful to establish, operate or cause to be operated a sexually oriented business in the city, unless the sexually oriented business is at least:
 - (1) Seven hundred fifty feet from any parcel occupied by another sexually oriented business or by a business licensed by the state to sell alcohol at the premises; and
 - (2) Seven hundred fifty feet from any parcel occupied by a house of worship, licensed day care center, public or private elementary or secondary school, public park or any residence.
- (C) For the purpose of this section, measurements shall be made in a straight line in all directions without regard to intervening structures or objects, from the closest part of any structure, including signs and roof overhangs, used in conjunction with a sexually oriented business to the closest point on a property boundary or right-of-way associated with any of the land use(s) identified in divisions (B)(1) and (2) above.

- (D) If the sexually oriented business use, lot or occupancy is discontinued for more than one year for any reason, the Board may adopt, after Notice by registered or certified mail to the property owners, an amortization schedule to bring about the gradual elimination of the nonconforming use, lot or occupancy.

(Ord. 364, passed 12-5-2005); Penalty, see § 112.99.

§ 112.21 – CONFLICTING CODE PROVISIONS.

Additionally, any provision(s) in the city code of ordinances specifically in conflict with any provision in this chapter is hereby deemed inoperative and repealed.

(Ord. 364, passed 12-5-2005)

§ 112.99 – PENALTY.

- (A) A person who knowingly violates, disobeys, omits, neglects or refuses to comply with or resists the enforcement of any of the provisions of this chapter shall be guilty of a Class 2 misdemeanor, and, upon conviction, shall be punishable by a fine not to exceed \$500 and/or imprisonment in the county jail for a period not to exceed 30 days. Each day a violation is committed, or permitted to continue, shall constitute a separate offense and shall be fined as such.
- (B) The city’s attorney is hereby authorized to institute civil proceedings necessary for the enforcement of this chapter to prosecute, restrain or correct violations hereof. The proceedings, including injunctions, shall be brought in the name of the city, provided, however, that nothing in this section and no action taken hereunder, shall be held to exclude the criminal or administrative proceedings as may be authorized by other provisions of this chapter, or any of the laws or ordinances in force in the city or to exempt anyone violating this code or any part of the laws from any penalty which may be incurred.

(Ord. 364, passed 12-5-2005)

TITLE XIII: GENERAL OFFENSES

Chapter

- 130: ALCOHOLIC BEVERAGES**
- 131: OFFENSES AGAINST PUBLIC WELFARE**
- 132: GAMBLING**
- 133: FIREWORKS, FIREARMS AND EXPLOSIVES**
- 134: OFFENSES TO PUBLIC PLACES**
- 135: MINORS; CURFEW**
- 136: OFFENSES TO PROPERTY**
- 137: JUNKED CARS AND CAR BODIES**
- 138: CONTROLLED DRUGS/SUBSTANCES**

CHAPTER 130: ALCOHOLIC BEVERAGES

Section

- 130.01 – Definitions**
- 130.02 – Package with broken seal prohibited**
- 130.03 – Misrepresentation of age by purchaser**
- 130.04 – Gift of intoxicating liquor to minor prohibited**
- 130.05 – Sale of alcoholic beverages to minors prohibited**
- 130.06 – Closing of premises; on-sale/malt beverage retail dealers**

- 130.99 – Penalty**

§ 130.01 – DEFINITIONS.

The definitions as used in the South Dakota Codified Laws, as amended, are hereby adopted for the purposes of this chapter.

(1998 Code, § 11.0101)

§ 130.02 – PACKAGE WITH BROKEN SEAL PROHIBITED.

No person shall have an unsealed package containing intoxicating liquor in his or her possession on the public streets or alleys of the city or on any public place within the city. For the purposes of this chapter, *PUBLIC PLACE* as used herein shall include any room, house, building, boat, vehicle, structure or other place which is known as a private club, bottle club, nightclub, key club, membership club, social club or other similar place by any name whatsoever known, including clubs whose patrons or members are confined or limited to specified members or the guests of the

members, whether membership fee is charged or not, and in or upon which intoxicating liquor or alcohol is stored, consumed, mixed or blended with any other beverage, whether or not the beverage is an alcoholic beverage, and regardless of whether the intoxicating liquor or alcohol so stored, consumed, mixed or blended is owned by the management or owner of the place, or by the members or patrons of the club or place collectively, or by members of the club or place individually.

(1998 Code, § 11.0102); Penalty, see § 130.99.

§ 130.03 – MISREPRESENTATION OF AGE BY PURCHASER.

It shall be unlawful for any person under the age of 21 years to purchase, attempt to purchase, possess or consume, except when consumed in a religious ceremony and given to a person under 21 years by an authorized person, alcoholic beverages, except low-point beer.

(1998 Code, § 11.0103); Penalty, see § 130.99.

§ 130.04 – GIFT OF INTOXICATING LIQUOR TO MINOR PROHIBITED.

It shall be unlawful to give for use as a beverage any alcoholic beverage except low-point beer to any person under the age of 21 years, or give for use as a beverage to any person under the age of 18 years any low-point beer unless it is done in the immediate presence of a parent or guardian or spouse over 21 years of age as to alcoholic beverages except low-point beer, and over 18 years of age as to low-point beer, or the minor or by prescription or direction of a duly licensed practitioner or nurse of the healing art for medicinal purposes. *INTOXICATING LIQUOR* for the purpose of this section shall include any alcoholic beverage except low-point beer. *LOW-POINT BEER* for the purpose of this section shall include any malt beverage which contains any alcohol by weight.

(1998 Code, § 11.0104); Penalty, see § 130.99.

§ 130.05 – SALE OF ALCOHOLIC BEVERAGES TO MINORS PROHIBITED.

- (A) No person shall sell any intoxicating liquor to any person under the age of 21 years, nor shall any person sell any low-point beer to any person under the age of 18 years.
- (B) *INTOXICATING LIQUOR* for the purpose of this section shall include any alcoholic beverage except low-point beer. *LOW-POINT BEER* for the purpose of this section shall include any malt beverage which contains any alcohol whatsoever but not more than three and two-tenths per centum of alcohol by weight.

(1998 Code, § 11.0105); Penalty, see § 130.99.

§ 130.06 – CLOSING OF PREMISES; ON-SALE/MALT BEVERAGE RETAIL DEALERS.

- (A) By 2:00 a.m., every public facility on-sale dealer and on-sale malt beverage licensee shall clear his or her premises of all persons, except employees, and shall lock all doors to the premises and shall turn out all lights thereon, except a night light, as is approved by the city. The night-light shall burn from 2:00 a.m. until daylight of the following day. Each public facility on-sale dealer and on-sale malt beverage licensee and his or her employees shall leave the place of business or premises by 2:30 a.m., and shall not return to the premises prior to 6:30 a.m. except for purposes of reasonable maintenance, as defined herein. Each public facility on-sale dealer and on-sale malt beverage licensee may enter the premises or authorize one of his or her employees to enter his or her premises at any time for the purpose of reasonable maintenance as is necessary to prevent the deterioration or destruction of the premises or any fixtures located thereon. The purpose of this division (A) is that the premises shall be wholly vacant during the closed period, except as provided in this division.
- (B) Any of the public facility on-sale dealers having on their licensed premises a duly licensed restaurant pursuant to SDCL Ch. 34-18 and who comply with all ordinances applicable thereto and which restaurant is operated in a room separate and apart from the room wherein intoxicating liquor is or can be dispensed may, notwithstanding anything to the contrary set forth in this section, continue to operate exclusively as a restaurant, provided all intoxicating liquor and the facilities for dispensing it are isolated and contained in a separate room devoted principally to the use of dispensing and consuming of alcoholic beverages and which room with its alcoholic contents is vacated, closed and locked as provided in this section.

(Amended: Ordinance No. 361, 08-23-05; Ordinance No. 365, 12-05-05); Penalty, see § 130.99.

§ 130.99 – PENALTY.

- (A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.
- (B) Any person who shall violate any of the provisions of § 130.02 shall be guilty of a Class 2 misdemeanor.

(1998 Code, § 11.0102)

- (C) Any person who shall violate the provisions of § 130.03 shall be guilty of a Class 2 misdemeanor.

(1998 Code, § 11.0103)

- (D) Any person who shall violate any of the provisions of § 130.04 shall be guilty of a Class 2 misdemeanor.

(1998 Code, § 11.0104)

- (E) Any person who shall violate any of the provisions of § 130.05 shall be guilty of a Class 2 misdemeanor.

(1998 Code, § 11.0105)

CHAPTER 131: OFFENSES AGAINST PUBLIC WELFARE

Section

- 131.01 – Disorderly conduct**
- 131.02 – Disturbing the peace**
- 131.03 – Carrying concealed weapons**
- 131.04 – Resisting, escaping from or assaulting an officer**
- 131.05 – Impersonating an officer**
- 131.06 – Indecency**
- 131.07 – False emergency alarms prohibited**
- 131.08 – Displaying license unlawfully**

- 131.99 – Penalty**

§ 131.01 – DISORDERLY CONDUCT.

Any person who intentionally causes serious public inconvenience, annoyance or alarm to any other person, or creates a risk thereof by doing any of the following, is guilty of disorderly conduct:

- (A) Engaging in fighting or in violent or threatening behavior;
- (B) Making unreasonable noise;
- (C) Disturbing any lawful assembly or meeting of persons without lawful authority;
or
- (D) Obstructing vehicular or pedestrian traffic.

(1998 Code, § 11.0201); Penalty, see § 131.99.

§ 131.02 – DISTURBING THE PEACE.

No person shall disturb the peace of the city or of any person by violent, tumultuous or offensive conduct, or by loud or unusual noises or by profane, obscene, indecent, violent or threatening language, or by assaulting, striking or attempting to assault or strike another person, or inviting or defying another person to fight or quarrel, or by willfully and maliciously destroying or attempting to destroy or injure any property belonging to another, or by engaging in a fight with another.

(1998 Code, § 11.0202); Penalty, see § 131.99.

§ 131.04 – RESISTING, ESCAPING FROM OR ASSAULTING AN OFFICER.

- (A) No person shall resist or obstruct any police officer in the performance of any official duty, nor in any way aid or assist any person to resist or escape from any like officer, nor assist any person to escape from any lawful confinement.
- (B) No person shall assault or strike any police officer in the discharge of his or her duty.

(1998 Code, § 11.0205); Penalty, see § 131.99.

§ 131.05 – IMPERSONATING AN OFFICER.

No person not duly authorized shall exercise the duties conferred by law upon police officer, wear a police officer's badge or represent himself or herself as being a police officer or peace officer, or attempt to exercise the duties of a police officer or peace officer.

(1998 Code, § 11.0206); Penalty, see § 131.99.

§ 131.07 – FALSE EMERGENCY ALARMS PROHIBITED.

No person shall knowingly make or give any false alarm of fire or other emergency by calling or causing to be called, the Fire Department, the police officers or any authorized emergency vehicle.

(1998 Code, § 11.0210)

§ 131.08 – DISPLAYING LICENSE UNLAWFULLY.

No person shall carry or display any city license or permit which has been terminated or revoked or which has not been lawfully procured and issued.

(1998 Code, § 11.0211); Penalty, see § 131.99.

§ 131.99 – PENALTY.

Any person violating this chapter shall pay a fine not in excess of \$500.

(1998 Code, § 11.0212)

CHAPTER 132: GAMBLING

Section

132.01 – Gambling prohibited

132.02 – Maintaining gambling devices prohibited

132.03 – Gambling apparatus nuisance

§ 132.01 – GAMBLING PROHIBITED.

Subject to the exceptions granted in SDCL Chapter 22-25, no person shall in the city, or within one mile thereof, play at roulette, chuck-luck, poker, blackjack, 21 or any other gambling game, dice game or game of chance upon which money or any article of value is staked, or to resort to, attend or be present at any place where the gambling games or games of chance are carried on.

(1998 Code, § 11.0301); Penalty, see § 10.99.

§ 132.03 – GAMBLING APPARATUS NUISANCE.

Every article, apparatus or device used, operated or kept in violation of any of the provisions of this chapter, shall be deemed a public nuisance, and may be seized by the officers at the time of the arrest of a person for violation of any provisions of this chapter, having the same in his or her possession. Upon conviction of the person for the violation, the gambling apparatus or article may be destroyed under order of the court.

(1998 Code, § 11.0303); Penalty, see § 10.99.

CHAPTER 133: FIREWORKS, FIREARMS AND EXPLOSIVES

Section

- 133.01 – Discharging firearms prohibited**
- 133.02 – Selling, possessing or discharging fireworks prohibited**
- 133.03 – Municipal officers may permit public display**
- 133.04 – Exploding fireworks within city prohibited; exception**
- 133.05 – Penalty**

§ 133.01 – DISCHARGING FIREARMS PROHIBITED.

No person shall discharge or shoot off any gun, pistol, air gun, paint ball gun or other firearm, or use any bow and arrow, slingshot or any device of like character within the corporate limits of the city, or in any public ground or park belonging to the city outside the corporate limits and within one mile of the corporate limits or of any public ground or park belonging to the city outside the corporate limits.

(1998 Code, § 11.0401); Penalty, see § 10.99.
(Amended: Ordinance No. 350, 02-03-03)

§ 133.02 – SELLING, POSSESSING OR DISCHARGING FIREWORKS PROHIBITED.

No individual, firm, partnership or corporation shall sell at retail or possess for sale at retail any fireworks of any description whatsoever in any city ground or park, whether located within the city or outside the city limits. No individual, firm, partnership or corporation shall sell at retail or possess for sale at retail any fireworks of any description whatsoever within 500 feet of any residence.

(1998 Code, § 11.0402); Penalty, see § 10.99.
(Amended: Ordinance No. 374, 12-04-06)

§ 133.03 – MUNICIPAL OFFICERS MAY PERMIT PUBLIC DISPLAY.

Nothing in this chapter shall prohibit the use of a public display of fireworks, provided that any individual, firm, partnership or corporation, prior to making the public display of fireworks, shall first secure a written permit so to do from the Mayor or Finance officer.

(1998 Code, § 11.0403); Penalty, see § 10.99.

§ 133.04 – EXPLODING FIREWORKS WITHIN CITY PROHIBITED; EXCEPTION.

It shall be unlawful for any person to use, explode, set off or fire any fireworks within the city, except on days as allowed by South Dakota statutes.

(1998 Code, § 11.0404); Penalty, see § 10.99.

§ 133.05 – PENALTY.

Any person violating any provision of this chapter shall be guilty of a Class 2 Misdemeanor.

CHAPTER 134: OFFENSES TO PUBLIC PLACES

Section

134.01 – Crowds obstructing streets

134.02 – Hindering or molesting passers-by

134.03 – Refuse in streets

134.04 – Drive-ins; littering premises

134.05 – Swimming pool use

134.99 – Penalty

§ 134.01 – CROWDS OBSTRUCTING STREETS.

It shall be unlawful for persons to gather in crowds or groups or for any person to stand on any public street or sidewalk in a manner so as to obstruct free passage thereon, or to annoy other persons passing along the same, and any police officer is authorized to disperse any crowd or group or to cause the removal of any person violating the provisions of this section and to summarily arrest any person in case of refusal to obey any reasonable direction given by the officer for the purpose of clearing the way or preventing annoyance to any passer-by on any public street or sidewalk.

(1998 Code, § 11.0501); Penalty, see § 134.99.

§ 134.02 – HINDERING OR MOLESTING PASSERS-BY.

No person shall upon any street, alley or sidewalk, wrongfully hinder, impede or use any rude, obscene, vulgar, indecent or threatening language to any passerby, or by any indecent act, gesture or noise molest, annoy or insult or put in fear any person passing or attempting to pass on the street, alley or sidewalk or through the entrance to the building.

(1998 Code, § 11.0502); Penalty, see § 134.99.

§ 134.03 – REFUSE IN STREETS.

It shall be unlawful for any person to throw or deposit any garbage, refuse, paper, glass, bottles, tin cans or any other form of litter or debris upon any sidewalk, alley, street or public park or upon any private property in the city.

(1998 Code, § 11.0504); Penalty, see § 134.99.

§ 134.04 – DRIVE-INS; LITTERING PREMISES.

It shall be unlawful for any person or persons operating a “drive-in” business where food, drinks, dairy or confectionary products are sold for consumption on the premises to deposit or permit the deposit or scattering of garbage, refuse, paper, glass, bottles, tin cans or other forms of litter or debris on the premises, except in containers to be provided by the person or persons and designated for the use.

(1998 Code, § 11.0504); Penalty, see § 134.99.

§ 134.05 – SWIMMING POOL USE.

- (A) It shall be unlawful for any person to use or to be within the swimming or wading pool owned by the city at any time when the pool is closed to use.

(1998 Code, § 11.0505); Penalty, see § 134.99.

§ 134.99 – PENALTY.

Any person violating any provision of this chapter shall be guilty of a Class 2 Misdemeanor.

(1998 Code, § 11.0505)

CHAPTER 135: MINORS; CURFEW

Section

135.01 – Loitering of minors prohibited

135.02 – Responsibility of parents

135.03 – Responsibility of others

135.99 – Penalty

§ 135.01 – LOITERING OF MINORS PROHIBITED.

- (A) It shall be unlawful for any minor under the age of 14 years to be on or present upon any streets, avenues, alleys, parks, playgrounds or other public grounds or places of amusements or entertainment, or places of business or vacant lots in the city before 6:00 a.m. or after 10:00 p.m. on any day of the week, unless the minor is accompanied by his or her parent, guardian or other adult person having the care or custody of the minor.

- (B) It shall be unlawful for any minor who is 14, 15, 16 or 17 years of age to be on or present upon any streets, avenues, alleys, parks, playgrounds or other public grounds or places of amusements or entertainments, or places of business or vacant lots in the city on the days and at the times as follows:
 - (1) Monday through Thursday, both inclusive, before 6:00 a.m. or after 10:00 p.m.;
 - (2) Friday, before 6:00 a.m.;
 - (3) Saturday, between the hours of 12:30 a.m. and 6:00 a.m.; and
 - (4) Sunday, between the hours of 12:30 a.m. and 6:00 a.m. or after 10:00 p.m., unless the minor is accompanied by his or her parent, guardian or other adult person having the care or custody of the minor.

(1998 Code, § 11.0601)

- (C) This section does not apply to a minor who is:
 - (1) Accompanied by the minor's parent or guardian;
 - (2) In a motor vehicle involved in interstate travel;
 - (3) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
 - (4) Involved in an emergency;
 - (5) Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor;

(Amended: Ordinance No. 329, 08-04-99); Penalty, see § 10.99.

§ 135.02 – RESPONSIBILITY OF PARENTS.

It shall be unlawful for the parent or guardian or other adult person having the care and custody of a minor who has not reached the age of 16 years to knowingly permit the minor to violate the provisions of § 135.01 above.

(1998 Code, § 11.0602); Penalty, see § 10.99.

§ 135.03 – RESPONSIBILITY OF OTHERS.

It shall be unlawful for any person operating places of amusement and entertainment, restaurants, cafés, theaters or other public places, to permit minors under the age of 16 years to enter or remain in the place of amusement and entertainment, restaurant, café, theater or other public place during the hours prohibited under this chapter, or any owner or operator of any motor vehicle to permit or allow any minor to be in or ride in the motor vehicle during the hours prohibited by this chapter; provided, however, that the provisions of this section do not apply when the minor is accompanied by his or her parents, guardian or other person having the care and custody of the minor.

(1998 Code, § 11.0603); Penalty, see § 10.99.

§ 135.99 – PENALTY.

Any person violating this chapter shall be subject to a fine not to exceed \$500.

CHAPTER 136: OFFENSES TO PROPERTY

Section

136.01 – Injuring signs

136.02 – Traffic signs

136.03 – Destroying trees and plants

136.04 – Solicitation at private residence declared a nuisance

136.05 – Duties of police

136.99 – Penalty

§ 136.01 – INJURING SIGNS.

No person shall deface, remove, change, mar or in any way interfere with or obliterate either wholly or in part any sign, signboard or card placed, posted, extended or erected by the city.

(1998 Code, § 11.0701); Penalty, see § 136.99.

§ 136.02 – TRAFFIC SIGNS.

No person shall deface, injure, move, obstruct or interfere with any official traffic sign or signal or street sign.

(1998 Code, § 11.0702); Penalty, see § 136.99.

§ 136.03 – DESTROYING TREES AND PLANTS.

- (A) No person shall willfully injure, destroy or deface any tree, shrub, plant or grass in any parking lot or park.
- (B) No person shall willfully injure or destroy any cultivated fruits or vegetables, ornamental trees, shrubs, hedges, vines or flowers, nor injure or carry off any of the products thereof which are the property of another.

(1998 Code, § 11.0703); Penalty, see § 136.99.

§ 136.04 – SOLICITATION AT PRIVATE RESIDENCE DECLARED A NUISANCE.

The practice of going in and upon private residences, and premises in the city by solicitors, hawkers, itinerant merchants and transient purchasers and vendors of merchandise, without the express invitation of the owner, or occupant of the premises, for the purpose of the sale or purchase of goods, wares and merchandise and/or the purpose of soliciting orders for the purchase or sale of the same, and for the purpose of disposing of, and/or peddling or hawking the same, is declared to be a public nuisance, declaring the duties of the Police Department, and providing punishment for the violation of this section.

(1998 Code, § 11.0704); Penalty, see § 136.99.

§ 136.05 – DUTIES OF POLICE.

The Chief of Police of the city is hereby required and directed to suppress the same, and to abate any nuisance as is described in § 136.04.

(1998 Code, § 11.0705)

§ 136.99 – PENALTY.

Any person in violation of any provision of this chapter shall be guilty of a Class 2 Misdemeanor.

(1998 Code, § 11.0706)

CHAPTER 137: JUNKED CARS AND CAR BODIES

Section

137.01 – Storing junked cars or car bodies where accessible to children

137.02 – Specifications for fence

137.03 – Limit of parked motor vehicles

137.99 – Penalty

§ 137.01 – STORING JUNKED CARS OR CAR BODIES WHERE ACCESSIBLE TO CHILDREN.

It is hereby declared to be unlawful for any person, firm or corporation to leave unattended or to abandon in any public place or in any location that is accessible to children within the city limits of the city, or on any location which is in plain view from adjacent property and from the public streets and alleys within the city any junked cars, car bodies, wrecked cars, abandoned and unusable cars or bodies therefrom, and any other unsightly trash or junk which would be dangerous for children to play in, around, or upon or which is, or tends to be unsightly and which does or tends to lower the value of adjacent property because of its unsightliness, unless the people so parking, abandoning or leaving the old car bodies, junked cars, wrecked cars or other unsightly junk first builds a solid fence at least six feet in height around the area in which the junked cars, old car bodies and other junk is to be placed, the fence to have a gate thereon to be securely fastened so small children cannot get in or among the old cars, junked cars, car bodies or other junk where they could or may be injured.

(1998 Code, § 11.0801)

§ 137.02 – SPECIFICATIONS FOR FENCE.

The fence to be built around the area where junked cars, car bodies or other junk is kept shall be of wood, steel or other substantial material and shall be kept in good repair and painted at all times.

(1998 Code, § 11.0802)

137.03 – LIMIT OF PARKED MOTOR VEHICLES.

No person shall allow more than four motor vehicles to be regularly kept at any private residential property unless such vehicles are parked within a garage or similar structure, or are kept enclosed by a fence which complies with Sections 137.01 and 137.02.

§ 137.99 – PENALTY.

Any person violating §§ 137.01 or 137.02 shall be guilty of a Class 2 misdemeanor.

(1998 Code, § 11.0803)

CHAPTER 138: CONTROLLED DRUGS/SUBSTANCES

Section

138.01 – Possession prohibited

138.02 – Manufacture, distribution, dispensing or selling prohibited

138.03 – Inhabiting room or vehicle prohibited

138.04 – Definition

138.99 – Penalty

§ 138.01 – POSSESSION PROHIBITED.

It shall be unlawful for any person knowingly or intentionally to possess a controlled drug or substance unless the substance was obtained directly or pursuant to a valid prescription or order from a practitioner, while acting in the course of his or her professional practice, or except as otherwise authorized by SDCL Chapter 34-20B.

(1998 Code, § 11.0901); Penalty, see § 138.99.

§ 138.02 – MANUFACTURE, DISTRIBUTION, DISPENSING OR SELLING PROHIBITED.

It shall be unlawful for any person to manufacture, distribute, dispense or sell a controlled drug or substance, or to possess with intent to manufacture, distribute, dispense or sell a controlled substance except as authorized by SDCL § 39-17.

(1998 Code, § 11.0902); Penalty, see § 138.99.

§ 138.03 – INHABITING ROOM OR VEHICLE PROHIBITED.

It shall be unlawful for any person to knowingly or intentionally inhabit a room or vehicle wherein any controlled drug or substance is being illegally stored or used.
(1998 Code, § 11.0903); Penalty, see § 138.99.

§ 138.04 – DEFINITION.

For the purpose of this chapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

CONTROLLED DRUG OR SUBSTANCE. A drug, substance or immediate precursor as enumerated in SDCL § 34-20B, Schedules I through IV.

(1998 Code, § 11.0904)

§ 138.99 – PENALTY.

Any person who shall violate any of the provisions of this chapter shall be punished as prescribed by the laws of the state.

(1998 Code, § 11.0905)

TITLE XV: LAND USAGE

Chapter

- 150: BUILDING REGULATIONS**
- 151: TRAILER COACH PARKS**
- 152: FLOOD DAMAGE PREVENTION**
- 153: SUBDIVISION REGULATIONS**
- 154: ZONING CODE**

CHAPTER 150: BUILDING REGULATIONS

Section

- 150.01 – General provisions**
- 150.02 – Fire limits**
- 150.03 – Construction regulations**
- 150.04 – Building operations**
- 150.05 – Moving buildings**
- 150.06 – Electrical construction**
- 150.07 – Plumbing regulations**
- 150.08 – Demolition of buildings**
- 150.09 – Building destruction/dilapidation**

§ 150.01 – GENERAL PROVISIONS.

- (A) *Permit required.* It shall be unlawful to construct any building or structure, other than a fence, in the city where the cost of the construction exceeds \$500, or to alter or remodel any building or structure so as to change the bearing walls, beams, supports or the roof thereof, without having first secured a permit therefor, or in violation of the terms of the permit, or in violation of the terms of this chapter. (1998 Code, § 15.0101)
- (B) *Application.* Application for permits shall be made to the Finance Officer, and shall be accompanied by plans and specifications showing the work to be done; the plans shall be verified by the signature of either the owner of the premises or by the contractor in charge of the operations. The plans shall be accompanied by a plat or sketch of the proposed location showing lot boundaries, existing structures and proposed changes.

(1998 Code, § 15.0102)

- (C) *Other ordinances.* All work done under any permit issued shall be in full compliance with zoning regulations, water and sewer regulations, street excavations and all other ordinances pertaining thereto.

(1998 Code, § 15.0103)

- (D) *Fees.*

- (1) The fees for building permits shall be as follows:

<i>Construction Cost</i>	<i>Rate</i>
A. More than \$500 and less than \$5,000	\$5
B. \$5,000 and less than \$10,000	\$10
C. \$10,000 or more	\$1 for each \$1,000 of cost

- (2) All fees provided herein shall be paid to the Finance Officer with the application.

(1998 Code, § 15.0104)

- (E) *Administration.*

- (1) The Building Official shall have the power and duty to enforce the provisions of this chapter:
- (a) Examine and approve all applications for building permits as to compliance with zoning regulations, water and sewer regulations and all other ordinances pertaining thereto; and
 - (b) Regulate and inspect all public and private construction, repair, raising, lowering, moving, wrecking, building equipment and structural maintenance of buildings in the city.
- (2) All permits shall be issued by the Finance Officer, upon approval by the Building Official or the City Council.

(1998 Code, § 15.0105)

(F) *Stop order.*

- (1) Whenever any work is being done in violation of this chapter and other ordinances pertaining thereto, or in variance with the terms of any permit issued for the work, the Building Official may order all work on the job stopped until the violation or variance is eliminated and any work or installation made in violation of this chapter corrected. The stop order, if oral, shall be followed by a written stop order within 24 hours, excluding Saturday, Sunday or holidays.
- (2) It shall be unlawful to do or perform any work in violation of the stop order, except as may be necessary to prevent injury or damage to persons or property.
- (3) A stop order may be revoked by the Mayor following approval of the City Council.

(1998 Code, § 15.0106)

- (G) *Interpretation.* Wherever in the building regulations it is provided that work must be done to the approval of or subject to the direction of the Building Official or other official of the city, this shall be construed to give the official only the discretion of determining whether the rules and standards established by ordinance have been complied with; and no like provisions shall be construed as giving any official discretionary powers as to what the regulations or standards shall be, or authority to require conditions not prescribed by ordinance or to enforce ordinance provisions in an arbitrary or discriminatory manner.

(1998 Code, § 15.0107)

- (H) *Right of entry.* The Building Official, in the discharge of his or her official duties, and upon proper identification, shall have authority to enter any building, structure or premises at any reasonable time.

(1998 Code, § 15.0108); Penalty, see § 10.99.

§ 150.02 – FIRE LIMITS.

All that part of the city zoned for other than residential use (R-1) is hereby designated to be the fire limits of the city or specifically within the following: Blocks 3, 4, 9, 10, 15, 16, 20, 21, of the Original Plat of the city.

(1998 Code, § 15.0201)

§ 150.03 – CONSTRUCTION REGULATIONS.

- (A) *Adoption of Basic Building Code.* The regulations contained in the 1993 edition of the National Building Code recommended and published by the National Board of Fire Underwriters, published in book form; or the current edition of the Basic Building Code (BOCA) published by the Building Officials and Code Administrators International, Inc., 1313 East 60th Street, Chicago, Illinois 60637, in book form; are hereby adopted as the regulations governing the construction of buildings and other structures in the city; and it shall be unlawful to erect or construct any building or structure in the city in violation of or without complying with the appropriate provisions of the regulations. Copies of the Code shall be kept on file in the Finance Officer's office for inspection by applicants.

(1998 Code, § 15.0301)

- (B) *Exceptions to Code.* Metal awning shall not be considered for the purpose of this code as being a part of the building, but shall be considered as personal property.

(1998 Code, § 15.0302)

- (C) *Foundation requirements for dwelling.*

- (1) No dwelling of any kind, except an approved manufactured home within an approved manufactured home park, shall be constructed, erected or placed upon any property within the municipality unless it is upon a continuous permanent foundation which extends around the entire perimeter of the structure. A continuous permanent foundation shall consist of frost footing and foundation walls not less than six inches wide, which walls shall extend a minimum of 48 inches below the final elevation grade and not less than 12 inches above the final elevation grade where it shall meet the sill of the dwelling structure. A foundation wall may consist of poured concrete, concrete block and mortar, a combination poured concrete and concrete block and mortar, or other approved foundation material. No skirting material shall be allowed to replace any portion of the required continuous permanent foundation wall.
- (2) If any approved materials other than concrete and mortar are used to construct the foundation walls, the foundation walls shall be waterproofed. All foundations shall be constructed in compliance with the building codes as adopted by the city.

- (D) *Limited exceptions to foundation requirements for dwellings involving additions or modifications to existing structures.* Upon favorable recommendation of the Planning and Zoning Commission, the City Council may grant a limited

exception to the requirements of division (C) above. A limited exception to the requirements of division (C) above may be granted only upon application from the owner of any existing dwelling and where, due to existing conditions, an addition to or modification of an existing dwelling requires construction of a continuous permanent foundation which extends less than the required minimum number of inches above elevation grade in order to meet or match the existing conditions of the existing dwelling.

(Amended: Ordinance No. 375, 05-07-07; Ordinance No. 378, 08-06-07); Penalty, see § 10.99.

§ 150.04 – BUILDING OPERATIONS.

- (A) *Use of streets.* The use of streets or sidewalks for the storage of materials in the process of construction or alteration of a building may be granted when the same will not unduly interfere with traffic. Any person seeking to make use of the street or sidewalk shall file an application with the Finance Officer, together with a bond with sureties to be approved by the City Council, to indemnify the City for any loss or damage which may be incurred by reason of the use and occupation.

(1998 Code, § 15.0401)

- (B) *Safeguards.* It shall be the duty of the person or corporation doing any constructing, altering or wrecking to do the same with proper care for the safety of persons and property. Warning barricades and lights shall be maintained whenever necessary for the protection of pedestrians or traffic.

(1998 Code, § 15.0402)

§ 150.05 – MOVING BUILDINGS.

- (A) *Permission to move building.* No person, firm or corporation shall move any building or structure on, through or over any public street, alley, sidewalk or other public property within the city without having obtained a permit therefor from the City Council.

(1998 Code, § 15.0501)

- (B) *Application.* Application for the permit shall be in writing and filed with the Finance Officer. Each application shall state thereon the proposed route and the number of days it is intended that the building or structure shall occupy any portion of any public street, alley, sidewalk or other public property; the name of the mover who will undertake the operation; and the location of the building or structure to be moved.

(1998 Code, § 15.0502)

- (C) *Approval and fee.* Upon approval of the intended route by the Building Official or City Council, a fee of \$15 for each day or fraction thereof that it is intended that the building shall occupy any portion of any public place shall be paid to the Finance Officer and the permit issued.

(1998 Code, § 15.0503)

- (D) *Bond required.* Every person, firm or corporation applying for a permit under this chapter shall submit with his or her application a bond in the sum of \$3,000, (or a cash bond with a lawful surety to be approved by the City Council), conditioned on his or her compliance with all the provisions of this chapter, and agreeing to pay any damage to any public property and holding the city harmless from any claim to damage of private property by reason of the occupation of public street, alley, sidewalk or other public property by the building or structure.

(1998 Code, § 15.0504)

- (E) *Safeguards.* It shall be the duty of the person, firm or corporation moving any building through the streets to do the same with proper care for the safety of persons and property. Warning barricades and lights shall be maintained wherever necessary for the protection of pedestrians or traffic.

(1998 Code, § 15.0505)

- (F) *Protecting pavement.*
 - (1) *Generally.* Where a building or structure is being moved over a street, but is not carried on another vehicle or on a unit equipped with tires, the street surface shall be protected by planking or other device effective to prevent injury to the roadway.
 - (2) *Filling of basement.* It shall be the duty of every person, firm or corporation applying for a permit under this chapter to completely fill and level any open basements, holes or other excavations existing on the property from which a building is moving.

(1998 Code, § 15.0506)

- (G) *Time limit for permit.* The time stated on the application shall be the term of the permit. Additional payment of \$15 for each day or fraction thereof over and above the time stated shall be paid for extension of the permit.

(1998 Code, § 15.0507); Penalty, see § 10.99.

§ 150.06 – ELECTRICAL CONSTRUCTION.

- (A) *Adoption of Regulation National Electric Code.* The rules and regulations contained in the code known as the National Electrical Code recommended by the National Board of Fire Underwriters and approved by the State Electrical Board as last published are hereby adopted as the regulations regarding the installation, alteration and use of electrical equipment in the city, and it shall be unlawful to begin any installation, alteration or change of electrical wiring within the city without complying with the appropriate provisions of the regulations and articles of this chapter. Copies of the Code shall be kept on file in the Finance Office for inspection by applicants.

(1998 Code, § 15.0601)

- (B) *Permits required.* It shall be unlawful to do or cause to be done any electrical construction, installation or alteration of electrical equipment in the city where the new construction exceed \$500 without having first secured a building permit therefore. Applications and fees shall be as per § 150.01(A) and (D).

(1998 Code, § 15.0602)

- (C) *Permit from State Electrical Board required.* No person shall for a fixed fee or price undertake or offer to plan, layout, supervise, install, make additions, make repairs in the installation of wiring, apparatus or equipment for electric lights, heat or power, unless he or she is properly licensed or has a permit to do so from the State Electrical Board.

(1998 Code, § 15.0603); Penalty, see § 10.99.

§ 150.07 – PLUMBING REGULATIONS.

- (A) *Adoption of regulation; State Plumbing Code.* The rules and regulations contained in the Code known as the “South Dakota State Plumbing Code” adopted, and published by the State Plumbing Commission are hereby adopted as the regulations governing the construction, installation and maintenance of plumbing in the city; and it shall be unlawful to proceed with any plumbing work connected or to be connected to any pipe or pipes in the city without complying with the appropriate provisions of the regulations. Copies of the Code shall be kept on file in the Finance Officer’s office for inspection.

(1998 Code, § 15.0701)

- (B) *Permits required.* It shall be unlawful to install any plumbing in the city where the new construction exceeds \$500 without having first secured a building permit therefor. Applications and fees shall be as per § 150.01(B) and (D). No permit shall be required for the making of repairs. The fee for the permits shall be in addition to the sewer and water connection charges established by ordinance.

(1998 Code, § 15.0702)

§ 150.08 – DEMOLITION OF BUILDINGS.

- (A) *Permit required.* No person shall demolish any building or part of a building within the city limits without having first obtained a permit.

(SDCL § 9-30-2) (1998 Code, § 15.0801)

- (B) *Application.* Written application for a demolition permit shall be filed with the Finance Officer. The application shall include the name of the applicant, the name of the owner of the building, the address of the building, and the approximate starting and completion dates of the building demolition. Any application so filed shall be considered by the City Council for approval, and any other conditions to be compiled with by the applicant shall be stated and followed.

(1998 Code, § 15.0802)

- (C) *Permit fee.* Upon filing an application, the applicant shall pay to the Finance Officer the sum of \$15. The Finance Officer shall issue a receipt to the applicant showing proof of the payment or permit fee.

(1998 Code, § 15.0803)

- (D) *Surety bond.* No building demolition permit shall be granted until the applicant files with the Finance Officer a bond running to the city in the penal sum to be established by the City Council, with sufficient surety, and conditioned that the applicant promptly fill in the basement areas left open as a result of such demolition and to restore the site(s) to a safe and sanitary condition. The applicant shall indemnify and save harmless the city against any and all liability for damages, costs and expenses, arising or which may arise or be insured in favor of any person by reason of negligence or misconduct or any act on his or her part or the part of his or her agents or employers, in connection with the demolition of the building or part thereof.

(SDCL § 9-29-13) (1998 Code, § 15.0804)

§ 150.09 – BUILDING DESTRUCTION/DILAPIDATION.

- (A) *Definitions.* A building shall be considered DESTROYED for the purposes of this chapter if it has been rendered uninhabitable and uneconomically restorable to its former state through an unforeseen occurrence, such as, but not limited to, fire, flood, windstorm or earthquake. A building shall be considered DILAPIDATED for the purpose of this chapter if it has any or all of the conditions or defects hereinafter described, and if the conditions or defects annoy, injure or endanger the comfort, repose, health or safety of others, or if the conditions or defects exist to the extent that the life, health, property, value of property or safety of the public or its occupants are jeopardized:
- (1) Whenever any building is: vacant and unoccupied for the purpose for which it was erected; and is unfit for occupancy as it fails to meet minimum standards; and has remained substantially in that condition for a period in excess of six months; or (2) Whenever any building or structure through lack of maintenance or attention and by virtue of its physical appearance and presence thereby depresses the market value of surrounding properties.

(SDCL § 9-29-13) (1998 Code, § 15.0901)

- (B) *Owner responsibilities; destroyed buildings.* The City Council, upon the destruction of a building, shall give written notice to the destroyed building's owner instructing the owner to comply with the following directive. The owner of a destroyed building, as defined by division (A) above, shall, within a reasonable period of time as determined by the City Council, remove or cause to be removed, the building's remains and transport them to a suitable disposal site. The owner shall also promptly fill in any basement areas left open by the building's destruction and restore the site(s) to a safe and sanitary condition.

(1998 Code, § 15.0902)

- (C) *Owner responsibilities; dilapidated buildings.* The City Council, upon its decision that a building is dilapidated as defined by division (A) above, shall give written notice to the building's owner which states the Council's decision and cites all of the conditions or defects listed in division (A) above, which are not pertinent to the aforementioned building. The notice shall also direct the owner to correct all of the pertinent conditions or defects within a reasonable period of time determined by the City Council. Finally, the notice shall direct the owner to, until all of the dilapidated building's conditions or defects have been corrected, seal any and all entrances to the building's basement areas so that they may both be entered casually or by less than reasonable force except for the purposes of building rehabilitation.

(1998 Code, § 15.0903)

(D) *Enforcement of owner responsibilities.*

- (1) The City Council, after having given written notice to the owner of a destroyed or dilapidated building as described in divisions (B) and (C) above, shall give the owners reasonable time to comply with the notice.
 - (a) If, after that time has expired, the owner shall be deemed guilty of a violation of this chapter.
 - (b) The City Council shall then cause their directives as stated in the written notice to be carried out, and the city may recover expenses so incurred from the owner of the destroyed or dilapidate building in a civil suit instituted for that purpose, or may levy an assessment against the property an collect the same.
- (2) The City Council shall cause to be published all assessments for costs incurred in enforcing compliance of their written notices that the assessments shall be considered by the City Council at the first regular October meeting of each year, at which time and place any person may appear and be heard. The notice shall be published one in the official newspaper, at least ten days prior to the first October meeting.
- (3) Within ten days after the assessment has been approves by the City Council, a certified copy of the same shall be due and payable to the city. If the assessment is not paid within 60 days of its filing, a penalty cost of 10% shall be added in addition to an annual interest rate at the highest legal rate allowed by law on the unpaid balance.

(SDCL § 9-29-13) (1998 Code, § 15.0904)

CHAPTER 151: RECREATIONAL VEHICLES

Section:

151.01 – Definitions

151.02 – Areas

151.03 – License Required

151.04 – Application for License

151.05 – Application for Parking Recreational Vehicle in Residential Lot

151.06 – License Fee

151.07 – License Granted

151.08 – Transfer of License

- 151.09 – Revocation and Suspension of License**
- 151.10 – Connected with Water and Sewer Systems**
- 151.11 – Electricity**
- 151.12 – Garbage Disposal**
- 151.13 – Application of Plumbing, Electrical, and Building Codes**

§ 151.01 DEFINITIONS

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

PERSON. Natural person, firms, partnership, associations, companies, and corporations.

MOTORIZED RECREATIONAL VEHICLE. A motorhome built on a truck or bus chassis or van chassis.

RECREATIONAL VEHICLE. Motorized and non-motorized vehicles that combine transportation and living quarters for travel, recreation, or camping.

RECREATIONAL VEHICLE PARK. Any plot of ground upon which one or more recreational vehicles, occupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for the accommodation.

§ 151.02 AREAS

It shall be unlawful for any person to build, construct, convert, install, or operate a recreational vehicle park without first having obtained a license as hereinafter required.

§ 151.03 LICENSE REQUIRED

- (A) No person shall establish or maintain a recreational vehicle park, as defined herein, without first obtaining a license therefor from the City, and agreeing in writing to comply with the terms of this chapter.
- (B) All recreational vehicle parks in existence upon the effective date of this chapter shall obtain a license and fully comply with the requirements of this chapter. Any recreational vehicles already parked and established upon any lot or lots within the City of the effective date of this chapter may be granted a special permit by City Council to remain parked or located on site, even though the same may not comply fully with the provisions of this chapter.
- (C) The special permit shall be given at the discretion of City Council.

§ 151.04 APPLICATION FOR RECREATIONAL VEHICLE PARK LICENSE

Any reputable person desiring to establish, maintain, or operate a recreational vehicle park, must submit an application in writing to the Authorized Agent for a license which application shall set forth the following:

- (A) Sketch of area to be used for camp purposes, showing dimensions, driveways, proposed location of units, and location of sanitary conveniences;
- (B) Statement relative to water supply, sewage, and garbage disposal;
- (C) Location and legal description of the recreational vehicle park; and
- (D) Plans and specifications of all buildings, and the buildings constructed or to be constructed with the recreational vehicle park.

§ 151.05 APPLICATION FOR PARKING RECREATIONAL VEHICLE IN RESIDENTIAL LOT

Any reputable person desiring to park or store a second recreational vehicle in the residential lot must submit an application in writing to the Authorized Agent for a license which application shall set forth the following:

- (A) A description of all recreational vehicles that will be parked or stored;
- (B) License plate number of all recreational vehicles parked or stored; and
- (C) Sketch of the area and location that recreational vehicles will be parked.

§ 151.06 LICENSE FEE

The annual fee for a recreational vehicle park license shall be \$5 for the first recreational vehicle and \$2.50 for each recreational vehicle parking space contained within the park. The annual fee for parking a second recreational vehicle in a residential lot shall be \$50.

§ 151.07 LICENSE GRANTED

Before a license is granted, all applications shall be examined by the City Council, Health Officer, and/or Chief of Police, who shall investigate the applicant and inspect the premises and proposed plan to make certain that the applicant is compliant with all provisions of the city ordinances and the laws of the state in regard to safety and sanitation. The officers shall submit their findings, in writing, to the City Council. Licenses issued hereunder grant no right to erect any buildings or to do any plumbing, or to do any electrical work.

§ 151.08 TRANSFER OF LICENSE

No license shall be transferred, without first making application in writing to the City Council for the transfer, which application shall set forth the following:

- (A) The name and post office address of the person holding the license;
- (B) The name and post office address of the person whom application for the transfer is made; and
- (C) The location and legal description of the recreational vehicle park upon which the application for transfer is made.

§ 151.09 REVOCATION AND SUSPENSION OF LICENSE

The governing body may revoke any license issued pursuant to this chapter if, after due hearing, it determines that the holder thereof has violated any provisions of this chapter or any recreational vehicle or recreational vehicle park becomes a nuisance or is maintained in an unsanitary, unsafe, or unlawful manner.

§ 151.10 CONNECTED WITH WATER AND SEWER SYSTEMS

- (A) Recreational vehicles parked in a recreational vehicle park must be connected to city water and sewer systems if any portion of the plot is within two hundred (200) feet thereof. Where those facilities cannot be made available, water supply for the camp shall have the approval of the City Health Officer, and septic tanks shall be installed as directed by the Health Officer; in no case shall privies be allowed.
- (B) It shall be unlawful to permit water from sinks, showers, or other fixtures of any kind in any unit, to be discharged onto the ground or street.

§ 151.11 ELECTRICITY

Recreational vehicle parks must provide electricity for each recreational vehicle. Ground, washrooms, toilets, and other service buildings must be properly lighted with electricity at all times.

§ 151.12 GARBAGE DISPOSAL

Sufficient water tight metal cans with tight-fitting covers shall be provided and the garbage disposed of by the person operating the recreational vehicle park, at least once each week.

§ 151.13 APPLICATION OF PLUMBING, ELECTRICAL, AND BUILDING CODES.

All plumbing, electrical work, and building done at any licensed camp shall be done in accordance with the Plumbing, Electrical, and Building Codes of the City.

(1998 Code, § 6.0413)

CHAPTER 152: FLOOD DAMAGE PREVENTION

Section

152.01 – Statutory authorization

152.02 – Findings of fact

152.03 – Purpose

152.04 – Methods of reducing flood losses

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152.10 – Warning and disclaimer of liability

152.11 – Establishment of development permit

152.12 – Designation of the Local Administrator

152.13 – Duties and responsibilities of the Local Administrator

152.14 – General standards

§ 152.01 – STATUTORY AUTHORIZATION.

The legislature of the state, in SDCL §§ 9-36 and 7-18-14, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety and general welfare of its citizenry.

(1998 Code, § 17.0101)

§ 152.02 – FINDINGS OF FACT.

- (A) The flood hazard areas of the municipality are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for

flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

- (B) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately flood proofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

(1998 Code, § 17.0102)

§ 152.03 – PURPOSE.

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

- (A) To protect human life and health;
- (B) To minimize expenditure of public money for costly flood control projects;
- (C) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (D) To minimize prolonged business interruptions;
- (E) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
- (F) To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (G) To ensure that potential buyers are notified that property is in an area of special flood hazard; and
- (H) To ensure that those who occupy the areas of special flood hazards assume responsibility for their actions.

(1998 Code, § 17.0103)

§ 152.04 – METHODS OF REDUCING FLOOD LOSSES.

In order to accomplish its purposes, this chapter includes methods and provisions for:

- (A) Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (B) Requiring that uses vulnerable to floods, including facilities which serve those uses, be protected against flood damage at the time of initial construction;
- (C) Controlling the alteration of natural flood plains, stream channels and natural protective barriers, which help accommodate or channel flood waters;
- (D) Controlling filling, grading, dredging and other development which may increase flood damage; and
- (E) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

(1998 Code, § 17.0104)

§ 152.05 – DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BASE FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year.

DEVELOPMENT. Any human-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

FLOOD or FLOODING. A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters; and/or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

MANUFACTURED HOME. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. This term also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than 180 consecutive days.

STRUCTURE. A walled and roofed building or manufactured home that is principally above ground.

SUBSTANTIAL IMPROVEMENT.

- (1) Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either:
 - (a) Before the improvement or repair is started; or
 - (b) If the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition, SUBSTANTIAL IMPROVEMENT is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.
- (2) The term does not, however, include either:
 - (a) Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or
 - (b) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

(1998 Code, § 17.0105)

§ 152.06 – LANDS TO WHICH THIS CHAPTER APPLIES.

This chapter shall apply to all areas of special flood hazards within the jurisdiction of the municipality.

(1998 Code, § 17.0106)

§ 152.07 – COMPLIANCE.

No structure or land shall hereafter be constructed, located, extended or altered without full compliance with the terms of this chapter and other applicable regulations.

(1998 Code, § 17.0107)

§ 152.08 – ABROGATION AND GREATER RESTRICTIONS.

This chapter is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this chapter and another ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(1998 Code, § 17.0108)

§ 152.09 – INTERPRETATION.

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

- (A) Considered as minimum requirements;
- (B) Liberally construed in favor of the governing body; and
- (C) Deemed neither to limit nor repeal any other powers granted under state statutes.

(1998 Code, § 17.0109)

§ 152.10 – WARNING AND DISCLAIMER OF LIABILITY.

- (A) The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations.
- (B) Larger floods can and will occur on rare occasions.
- (C) Flood heights may be increased by human-made or natural causes.
- (D) This chapter does not imply that land outside the areas of special flood hazards or uses permitted within those areas of special flood hazards or uses permitted within those areas will be free from flooding or flood damages.
- (E) This chapter shall not create liability on the part of the municipality, any officer or employee thereof, or the Federal Emergency Management Agency for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

(1998 Code, § 17.0110)

§ 152.11 – ESTABLISHMENT OF DEVELOPMENT PERMIT.

- (A) A development permit shall be obtained before construction or development begins within the jurisdiction of the municipality.
- (B) Application for a development permit shall be made on forms furnished by the local administrator and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimension and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing.

(1998 Code, § 17.0111)

§ 152.12 – DESIGNATION OF THE LOCAL ADMINISTRATOR.

The Municipal Building Inspector, Zoning Administrator, Finance Officer or other official designated by the governing body shall administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

(1998 Code, § 17.0112)

§ 152.13 – DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR.

Duties of the Local Administrator shall include, but not be limited to:

- (A) Review all development permits to determine that the permit requirements of this chapter have been satisfied and to determine whether proposed building sites will be reasonably safe from flooding;
- (B) Review all development permits to determine that permits have been obtained from those federal, state or local governmental agencies from which prior approval is required; and
- (C) Review all development permits to determine if the proposed development adversely affects the flood carrying capacity of the flood-prone area. For the purposes of this chapter, ADVERSELY AFFECTS means damage to adjacent properties because of rises in flood stages attributed to physical changes of the channel and the adjacent overbank areas.
 - (1) If it is determined that there is no adverse effect and the development is not a building, and that all other applicable municipal, state and federal

regulations are satisfied, then the permit shall be granted without further consideration.

- (2) If it is determined that there is an adverse effect, then technical justification (i.e., a registered professional engineer's certification) for the proposed development shall be required.
- (3) If the proposed development is a building, then the provisions of this chapter, as well as all other applicable municipal, state and federal regulations, shall apply.

(1998 Code, § 17.0113)

§ 152.14 – GENERAL STANDARDS.

If a proposed building site is located in a flood-prone area, all new construction and substantial improvements (including the placement of manufactured homes) shall conform to the following standards.

- (A) *Anchoring.* All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure and capable of resisting the hydrostatic and hydrodynamic loads.
- (B) *Construction materials and methods.*
 - (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
 - (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
 - (3) All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (C) *Utilities.*
 - (1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
 - (2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.

- (3) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(D) *Subdivision proposals.*

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least 50 lots or five acres (whichever is less).

- (E) *Encroachments.* Encroachments, including fill, new construction, substantial improvements and other development shall be prohibited in any floodway unless a technical evaluation demonstrates the encroachments will not result in any increase in flood levels during the occurrence of the base flood discharge.

(1998 Code, § 17.0114)

CHAPTER 153: SUBDIVISION REGULATIONS

Section

153.01 – Adoption by reference

§ 153.01 – ADOPTION BY REFERENCE.

The subdivision regulations of the city are hereby adopted by reference and incorporated as fully as if set out at length herein.

(Amended: Ordinance No. 320, 12-01-97)

CHAPTER 154: ZONING CODE

Section

154.01 – Adoption by reference

§ 154.01 – ADOPTION BY REFERENCE.

The Zoning Code of the city are hereby adopted by reference and incorporated as fully as if set out at length herein.

(Amended: Ordinance No. 319, 12-01-97; Ordinance No. 326, 01-13-99; Ordinance No. 376, 06-04-07; Ordinance No. 382, 03-03-08; Ordinance No. 383, 03-03-08; Ordinance No. 384, 03-03-08; Ordinance No. 385, 03-03-08; Ordinance No. 394, 06-07-10)