

City of Clark

**Municipal Code
Book**

City of Clark Municipal Code Book

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- 3 Health and Sanitation
- 2012 International Property Maintenance Code
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Title 1 - Administrative Code

Chapter

- 1.01 Municipal Employees
 - 1.02 Mayor and City Council
-

Chapter 1.01: Municipal Employees

Section

- 1.01.01 Appointment of Officers
 - 1.01.02 Employment Policies
 - 1.01.03 Salaries
 - 1.01.04 Bond
-

1.01.01 Appointment of Officers

At the first regular meeting in May of each year, there shall be appointed by the governing board a Library Board, Park Board, Housing and Redevelopment Board, Health Officer, City Attorney, Chief of Police, and such other officers as may be provided by ordinance, to hold office until the appointment and qualifications or successors. All such appointments shall be made by the Mayor with approval of the City Council. All others shall be considered paid employees or in the case of the city attorney or other professionals shall be independent contractors appointed by the majority of the governing body. (SDCL 9-14-3)

1.01.02 Employment Policies

All policies regarding personnel regulations and benefits of the City shall be included in a Personal Policy manual, which shall be filed with the Finance Officer and be available to all municipal employees. (Ordinance 298)

1.01.03 Salaries

All salaries for employees of the city shall be fixed by ordinance or by resolution of the board and shall be paid bi-weekly, or at such time as determined by the board, by resolution.

1.01.04 Bond

The Finance Officer of the city shall furnish bond to be determined by the governing board in such sums may be determined by resolution or ordinance conditioned for the faithful performance of their duties and to account and pay over and deliver all money or property coming into their hands by virtue of their office, excepting that the bond of the municipal finance officer shall be in the amount as provided by SDCL 9-14-6.1.

Chapter 1.02: Mayor and City Council

Section	
1.02.01	Mayor – Duties
1.02.02	Meetings
1.02.03	President and Vice President of Council
1.02.04	Compensation
1.02.05	Supervision of Departments
1.02.06	Terms of Office of Mayor and Alderman

1.02.01 Mayor – Duties

The Mayor shall preside at all meetings of the City Council but shall have no vote except in the case of a tie. The Mayor shall perform such other duties as may be prescribed by laws and ordinances and ensure that such laws and ordinances are faithfully executed, and shall have the power to veto any ordinance or resolution passed by the council, and the power to veto any part of item of any ordinance or resolution appropriating money. (SDCL 9-8-3)

1.02.02 Meetings

Regular meetings of the City Council shall be held in the City Hall on the first Monday of each month at 7:00 pm. Special meetings may be held at the call of the Mayor to consider such matters as may be mentioned in the call for the meeting. (SDCL 9-8-8)

1.02.03 President and Vice President of Council

At the first regular meeting after the annual election in each year and after the qualifications of the newly elected council members, the City Council shall elect from among its members a president and vice president, who shall hold their respective offices for the municipal year. The president of the City council, in the absence of the Mayor, shall be presiding officer of the City Council and during the temporary disability of absence of the Mayor from the City, shall be Acting Mayor and possess all of the powers of the Mayor. In the absence of disability of the Mayor and the president of the City Council, the vice president shall perform the duties of the Mayor and president of the council. (SDCL 9-8-7)

1.02.04 Compensation

The Mayor and members of the City Council shall be allowed compensation as provided by ordinance which shall be paid in such installments as may be determined by the City Council. (SDCL 9-14-28)

1.02.05 Supervision of Departments

The Mayor, with approval of the City Council, shall appoint each year members of the Council to act in a supervisory capacity in each of the departments, and such council members, so appointed, shall have supervision over the department and shall as requested by the Council, report as to the condition and matters in said department. (SDCL 9-8-9)

1.02.06 Terms of Office of Mayor and Alderman

In accordance with SDCL 9-8-4, the common council shall consist of the mayor elected at large and two alderman elected from and by the voters of each ward of the city. The term of office for the mayor and alderman shall be set by this ordinance for three (3) years. The current seated mayor and alderman shall complete the remainder of their unexpired terms and hold office until such successors are elected and qualified. At the first election of alderman following passage of this ordinance, the city council shall stagger the initial terms of the alderman in each ward to provide that the two aldermen are not up for reelection in the same year. The office of mayor up for election in 2002 shall have an initial term of three (3) years; aldermen up for election in 2002 shall have an initial term of three (3) years, and aldermen up for election in 2003 shall have an initial term of three (3) years. All future terms, for mayor and aldermen alike, shall be for a (3) year term. A person may hold office for more than one term. (Ord. 424)

Title 2 - Boundaries, Wards and Precincts

Chapter

- 2.02 City Limits
 - 2.04 Wards
 - 2.06 Voting Precincts
-

Chapter 2.02: City Limits

Section

2.02.02 City Limits and Boundaries

2.02.02 City of Limits and Boundaries

The corporate limits of the city shall be declared to be such as have been legally established and amended by law and ordinances of the City as shown on the official map on file in the office of the Finance Officer. Such map shall be incorporated in this ordinance by reference and adopted as the official map showing the boundaries and limits of the City. (SDCL 9-3-2, SDCL 9-4-1)

Chapter 2.04: Wards

Section	
2.04.02	Ward I
2.04.04	Ward II
2.04.06	Ward III

2.04.02 Ward I

Ward “I” shall comprise of all the territory within the corporate city limits lying East of South Commercial Street and South of 1st Ave East, and South of Grant Street to include the west boundary of Outlots F and G.

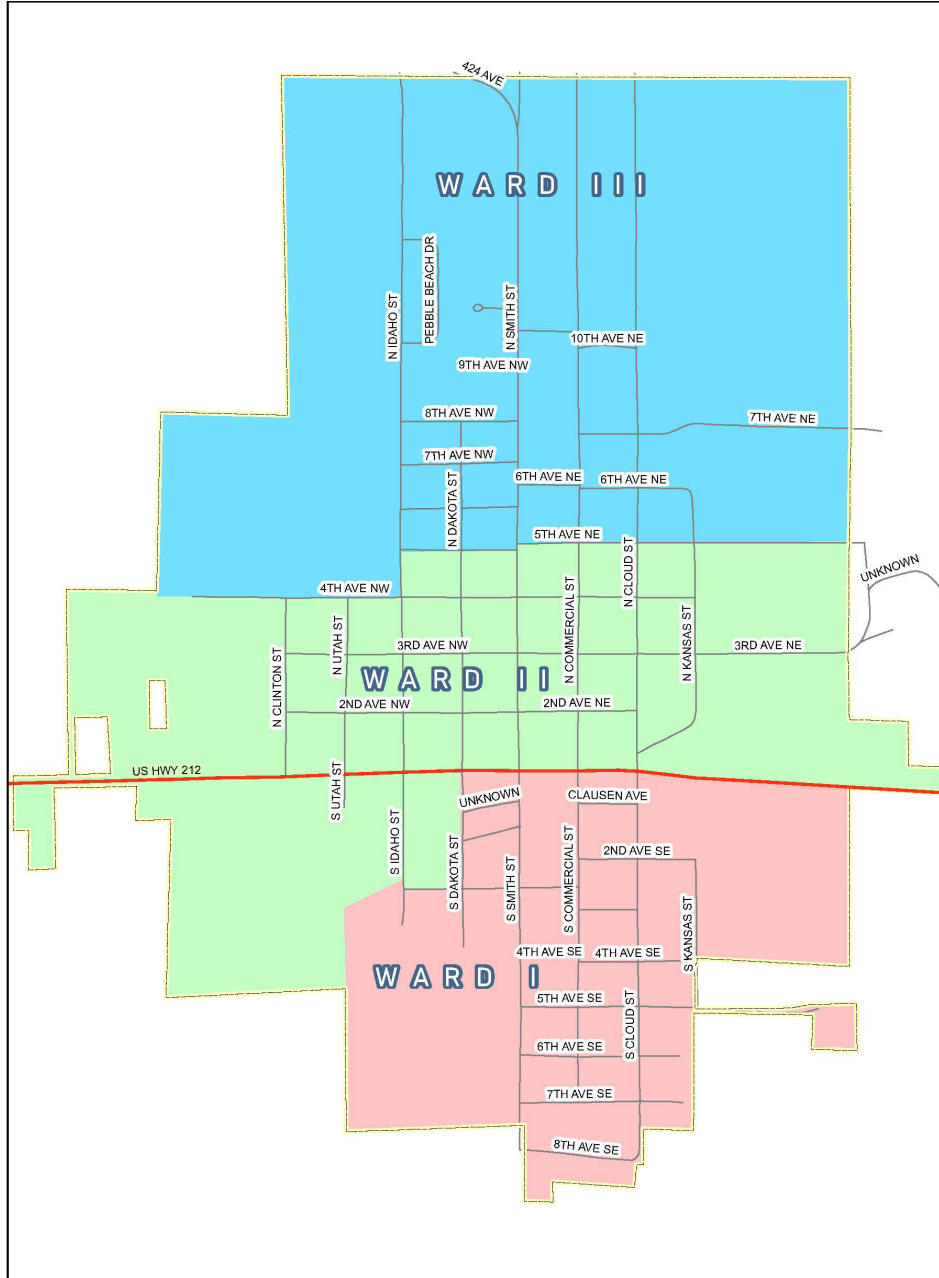
2.04.04 Ward II

Ward “II” shall comprise of all the territory within the corporate city limits with a south boundary lying north of Grant Ave to the east boundary of Commercial Street and west boundary, not including, Outlots F and G, and north boundary up to 4th Ave. North West to Commercial Street jogging up to 5th Ave. NE.

2.04.06 Ward III

Ward “III” shall comprise of all the territory within the corporate city limits lying North of 4th Ave. North West over to Commercial Street and all property North of 5th Avenue North East. “

CITY OF CLARK OFFICIAL VOTING MAP



Clark Wards					
Ward	Optimal Target Population	Population	Population Deviation	% Deviation	
I	383	384	1	0.26%	
II	383	389	6	1.57%	
III	383	375	-8	-2.09%	
					Total % Deviation of Most Populated & Least Populated
					3.66%

Chapter 2.06: Voting Precincts

Section

2.06.02 Voting Precincts

2.06.04 Voting Places in Precincts

2.06.02 Voting Precincts

Wards I, II and III of the City of Clark shall each constitute and be a separate voting precinct.

2.06.04 Voting Places in Precincts

The polling places in the precincts of the City of Clark shall be as designated by the governing body by resolution from time to time.

Title 3 - Health and Sanitation

Chapter

- 3.02 Board of Health
- 3.04 Restricted Use, Acceptable Wastes, Rubble Sites (Ord. 364)
- 3.06 Residential Solid Waste Collection and Disposal
- 3.10 Trees on Private Property (Ord. 524)
- 3.14 Dutch Elm Disease
- 3.99 Punishment

2012 International Property Maintenance Code (Ordinance 515)

Chapter 3.02: Board of Health

Section

3.02.02 Heath Officer

3.02.04 Health Board

3.02.02 Health Officer

The Mayor shall at the first meeting in May of each year, or as soon thereafter as possible, appoint a City Health Officer for a yearly term. The Health Officer shall advise the Mayor and Council with regard to health problems and such other duties as provided by law.

3.02.04 Health Board

The Mayor may appoint a Health Board. The Health Board of the City of Clark shall be composed of the Health Officer and two other members to be appointed by the Mayor at the time of the appointment of the other officials of the City. They shall hold office for a period of one (1) year or until their successors are appointed and qualified. Said members shall be residents of the City of Clark.

Chapter 3.04: Restricted Use, Acceptable Waste, Rubble Site

Section	
3.04.02	Designation
3.04.04	Prohibited Deposits Generally
3.04.06	Regulation of Deposit of Bulk Articles and Establishing a Fee Therefore
3.04.08	Charge for Depositing at the City Dump Ground
3.04.10	Records and Receipts
3.04.12	Supervision of Deposits
3.04.14	Removal of Materials
3.04.16	Loading of Material or Solid Waste for Transportation
3.04.18	Unlawful Deposits Generally
3.04.20	Further Restrictions

3.04.02 Designation

The City Council shall, from time to time, designate an area to be known as the Clark restricted use acceptable waste rubble site, which shall be for the depositing of material or solid waste not prohibited below. The City shall also provide a “recycling center,” which shall be under city supervision, open with hours accessible to the public, which shall have containers for glass, plastic, aluminum, steel, paper, cardboard and other recyclable materials.

3.04.04 Prohibited Deposits Generally

It shall be unlawful for any person to deposit or cause to be deposited in the rubble site any of the following:

- raw garbage, batteries, oil or tires;
- recyclable material, i.e., glass, plastics, aluminum, steel, paper or cardboard. All of said items shall be delivered to the recycling center;
- dead animal carcasses;
- filth from privy vaults, boxes or cesspools; or
- other loose material which can be or is liable to be carried by the wind outside the rubble site to the injury or annoyance of nearby property owners.

3.04.06 Regulation of Deposit of Bulk Articles and Establishing a Fee Therefore

No person shall deposit any material or solid waste or any kind in or upon the rubble site unless and until a location for such deposit shall have first been indicated by the City. The City shall maintain: a composting pile for leaves, grass clippings and yard waste; a

burnable pit for trees, wood, lumber and untreated wood; a trench, completely separate from wood debris, which shall be used for the deposit of concrete, bricks, shingles furniture, mattresses and televisions and said trench shall be covered monthly; a “white goods” pile for appliances, car bodies, machinery, scrap metal and any other bulky articles too large for the recycling center. No refrigerators, freezers, stoves or hot water heaters shall be allowed to be deposited unless the Freon from the compressors and the oil or gasoline has been removed from said items.

3.04.08 Charge for Depositing at the City Rubble Site

It shall be unlawful for any person to deposit any material at the rubble site without first paying the rubble site attendant, finance officer or their designated agent a fee according to the size of the load, such fee to be established from time to time by the City Council.

3.04.10 Records and Receipts

The rubble site attendant, finance officer, or their designated agent shall issues pre-numbered duplicate receipts to all parties who are required to pay the dumping fee. Adequate records shall be maintained as required under the direction of the city council and the rubble site attendant or his designated agent shall deliver all monies collected and a record thereof to the city finance officer on the last day of each week.

3.04.12 Supervision of Deposits

It shall be unlawful for any person to deposit any material at the rubble site except under the direction of the City Finance Officer or the rubble site attendant or their designated agent.

3.04.14 Removal of Materials

It shall be unlawful for any person to remove or cause to be removed from the rubble site any article or material of any kind after the same has been deposited there, unless permission to do so is granted by the City Council.

3.04.16 Loading of Materials or Solid Waste for Transportation

Any vehicle used for transporting materials or solid waste shall be so loaded that no materials shall fall off or be blown off the vehicle while in transit. It shall be unlawful for any person to load a vehicle contrary to the provisions of this section.

3.04.18 Unlawful Deposits Generally

It shall be unlawful for any person to deposit or cause to be deposited any garbage, rubbish or other waste materials in or upon any premises, streets, alleys, gutters or in or upon any other private or public property within the City, or upon any property on the route between the City and the rubble site.

3.04.02 Further Restrictions

It shall be unlawful for anyone who is not a resident of the City of Clark to use the dump ground and further it shall be unlawful for any resident of the city of Clark to deposit or cause to be deposited any waste materials that did not originate in the City of Clark.

Chapter 3.06: Residential Solid Waste Collection and Disposal

Section	
3.06.02	Declaration of Purpose
3.06.04	Definitions
3.06.06	Contract for Commercial Collector
3.06.08	Vehicle Requirements for Commercial Collectors
3.06.10	Garbage Containers
3.06.12	Rubbish and Rubble Containers
3.06.14	Approved Containers
3.06.16	Frequency of Collection
3.06.18	Cost, How Established, How Collected

3.06.02 Declaration of Purpose

That it is in the public interest, convenience and necessity of the City to establish a municipal system for the collection and disposal of solid waste generated within the City.

3.06.04 Definitions

The following words and phrases shall have the following meanings, unless a different meaning is clearly required by the context:

Commercial Collector: Any person who hauls or transports any solid waste through or upon the streets or alleys of this City for a consideration or a fee pursuant to a contract with the City.

Solid Waste: Putrescible and nonputrescible waste resulting from the normal activities of households including, but not limited to, garbage and rubbish.

Garbage: All 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 of food, and all offal, excluding useful industrial by-products, from all public and private establishments and from all residents.

Rubbish: Nonputrescible solid waste consisting of combustible and noncombustible wastes, such as ashes, paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, trees or portions of trees, or other litter with similar properties.

Rubble: Stone, brick, concrete or similar inorganic material.

Domestic Unit: Any single independent family unit, irrespective of the number of persons constituting such unit, but shall not include a situation where one or more independent families may be living together in any single residence or abode, but in such

situation, each of such independent families shall be deemed and regarded as a separate and distinct domestic unit. Each independent family unit living in multiple dwelling residences, apartment houses or any type of residence including trailer houses shall each be deemed a domestic unit for the purposes of this ordinance. A rooming house that supplies lodging for hire and which does not serve meals shall be deemed one domestic unit for the purpose of this ordinance.

3.06.06 Contract for Commercial Collector

- (a) It shall be unlawful for any person to use the streets for the collection, removal or disposal of any garbage or rubbish for a fee or charge without having first entered into a contract with the City to perform such services. Any contract entered into for such services shall be approved by the City Council before it is issued and shall be for such term and consideration and subject to such conditions as the City Council shall from time to time determine in accordance with the provisions of this ordinance. The commercial collector shall be the only person allowed to provide residential solid waste collection and disposal services within the City or within the boundaries set out by the limitations of such contract.
 - (b) Service to commercial, industrial and public institutions is beyond the scope of this ordinance and the supplying of the charge for such service shall be separately contracted between the commercial collector and the generator.
 - (c) Special haul services requested by occupants or owners, or bulky material and large items requiring special handling and pickup at times other than normally scheduled are beyond the scope of this ordinance.
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3.06.08 Vehicle Requirements for Commercial Collectors

The commercial collector shall provide himself with a suitable vehicle or vehicles which shall be watertight and be permanently covered on top so as to prevent the escape of odors and contents and so as to hide the contents from the public view. Such vehicle shall be kept in a clean and sanitary condition and shall be thoroughly washed at such times and intervals as may be directed by the City Council or as may be necessary to keep the vehicle in proper sanitary condition. Such vehicle, when conveying solid waste, shall be so loaded and unloaded that the contents shall not fall or spill upon the ground. No article or item shall be carried on such vehicle so as to drag upon the street. All vehicles used for the collection of solid waste shall be equipped with an all-metal box which shall otherwise comply with the requirements hereof.

3.06.10 Garbage Containers

The occupant of every dwelling house or apartment and every place of business and building shall provide a covered, watertight container in which the occupant shall cause to deposited all garbage accumulated on the premises. Such container shall have a

capacity of not less than ten gallons nor more than thirty gallons and shall be located on the premises adjacent to an alley bordering on said premises and so as to be accessible from the alley adjoining the premises. Where there is no through alley available, garbage cans and containers shall be placed on the parkway adjoining the premises on the day of the garbage collection. Garbage cans and containers shall be so placed that collectors of garbage do not have to carry such cans or containers for a distance of more than twenty feet. No garbage truck shall be required to use any private driveway in collection of garbage under the provisions of this ordinance. The vicinity of garbage containers shall be kept free from garbage and other putrescible matter that attracts flies, rats or vermin.

3.06.12 Rubbish and Rubble Containers

The occupant of every dwelling house or apartment and every place of business and building shall provide a suitable container for the storage of rubbish and waste material, which containers shall be suitable to prevent the scattering of the rubbish waste material prior to the collection thereof. This section shall not be construed so as to require the separation of garbage and rubbish prior to collection.

3.06.14 Approved Containers

The commercial collector shall not be required to collect solid waste unless it is in approved containers or bundles, except as agreed to for special haul services.

3.06.16 Frequency of Collection

The commercial collector shall collect garbage and rubbish from the residence district at least once in each week. Collections shall be made between the hours of 6:00 A.M. and 6:00 P.M., except Sundays and holidays, when no collections shall be made, subject to such reasonable modifications as the City Council may grant. The collections in the business district shall be made as early in the day as is convenient.

3.06.18 Cost, How Established, How Collected

- (1) Each Domestic Unit within this City shall be required to pay a solid waste collection and disposal fee established by this ordinance. The cost of the collection and disposal of solid waste from Domestic Units shall become a charge against the occupant of each dwelling to be payable quarterly together with other public service charges as defined by this City. The charges for such solid waste collection and disposal shall not exceed the rates as fixed by the City by ordinance from time to time. For solid waste collected in the manner herein provided, the rates shall be established by legally acceptable competitive bidding procedures. Domestic Units where each occupant is shown by satisfactory proof presented to the City Finance Officer to be not less than 65 years of age shall be eligible for a

- reduced solid waste collection for Senior Citizens. The amount of such reduced solid waste collection fee for Senior Citizens shall in no event be less than one-half that fee being charged other Domestic Units within the City.
- (2) The commercial collector shall bill the city within 10 days following the end of each month for service rendered. The City shall pay the commercial collector on or before the 25th day following the end of said month. Said billing and payment shall be based on the price rates and schedules then in effect multiplied by the number of dwelling units which have then paid the City according to the records of the city finance officer. The City shall pay to the commercial collector only those monies actually collected. The commercial collector shall have the right, in the event of a substantial increase in cost of operation, to increase per unit charges, subject to the approval of the City Council.
 - (3) If the commercial collector shall make less than three collections at any residential dwelling unit in one calendar month, the commercial collector shall charge the City for one-half the regular monthly charge; for three or more collections, the commercial collector shall charge the City the full monthly rate.
 - (4) In addition to the foregoing method of billing and collecting with the public service charges for solid waste collection and disposal from Domestic Units, the city finance officer, with the approval of the City Council, may from time to time, adopt and use, and may also enforce other methods of billing and collecting such charges as may appear efficient, feasible and appropriate to the end that, in every case, each Domestic Unit shall pay the collection charge provided for in this ordinance.
 - (5) Failure of the occupant of Domestic Units to pay the collection charges when due will constitute grounds for the termination of solid waste collection, water service, and sewer service.

Chapter 3.10: Trees on Private Property

Section	
3.10.02	Primary Responsibility
3.10.04	City Jurisdiction
3.10.06	Conditions Constituting a Public Nuisance
3.10.08	Private Abatement
3.10.10	City Inspection
3.10.12	Order to Abate
3.10.14	Appeal
3.10.16	Failure to Comply
3.10.18	City Abatement
3.10.20	Cost of Abatement – Assessment
3.10.22	Injury to Private Trees
3.10.24	Injury While Moving
3.10.26	Tree Topping

3.10.02 Primary Responsibility

Every owner and inhabitant of private property within the City of Clark shall be responsible for the proper maintenance, care and pruning of all trees on private property within the City, and when necessary, the removal of dead, diseased or otherwise dangerous trees or parts thereof on private property within the City.

3.10.04 City Jurisdiction

The City shall have the jurisdiction and authority to order, and if necessary, to be involved in the actual pruning, care, removal or other activity involving any tree on any private property when the same shall be deemed necessary or advisable to preserve the public health, peace, safety or welfare, or to prevent the spread of disease or insect infestation to other trees, plants or animals.

3.10.06 Conditions Constituting a Public Nuisance

The following tree conditions on private or public property are hereby declared to constitute a public nuisance in that they pose potential safety or health hazards, could cause possible injury or endanger property or life, or unlawfully interferes with, obstructs, or tends to obstruct, or renders dangerous for passage, any public park, square, street or highway, or other public way:

- A. Dead trees with no growth or life remaining;

- B. Those portions, branches and limbs of trees that are considered dead;
 - C. Broken or damaged limbs or branches;
 - D. Trees or areas of trees that are diseased requiring treatment, pruning or removal;
 - E. Trees or areas of trees infested with insects that are harmful to trees, plant life or humans;
 - F. Trees in violation of Section 6.08.08 or 6.08.10.
-

3.10.08 Private Abatement

It shall be unlawful for any person to cause or allow any public nuisance as defined in Section 3.10.06, on his or her property, and the same shall be privately abated by the owner or inhabitant of the property upon his discovery of the same.

3.10.10 City Inspection

The City, its designated officers or employees, shall have the authority to enter onto private property for the purpose of inspection for the possible discovery of any public nuisance as defined in Section 3.10.06. Any such inspection may involve the State or District Forester or other appropriate governmental official and may include the taking of any specimen or sample for testing or closer analysis.

3.10.12 Order to Abate

When the determination is made that one of the items constituting a public nuisance is in existence, the City shall cause a written order to abate or correct the nuisance to be given to the owner or inhabitant of the property involved. The order shall effectively describe the remedy needed and shall give the owner or inhabitant a designated reasonable time, depending on the severity or emergency of the situation, to correct the problem, whether it be by treatment, pruning, removal or other remedy. The time shall be as determined by the City official, but shall be not less than three (3) days. Service shall be in such a manner to reasonably assure delivery.

3.10.14 Appeal

Any person, owner or inhabitant of any property feeling aggrieved by receipt of an order described in 3.10.12 above may appeal said order to the City Council. Appeals must be taken within the time stated in the order, and preferably by the next City Council meeting. If the council chooses to hear the appeal, it may affirm, modify or revoke the order.

3.10.16 Failure to Comply

Any person failing to comply with an order given pursuant to 3.10.12 shall be in violation of this ordinance and shall be subject to prosecution therefore. In addition, the City Council shall have the authority to prevent, abate, or otherwise remove the public nuisance in existence.

3.10.18 City Abatement

Any public nuisance remaining unabated after expiration of the time in the order described in 3.10.12 may be abated by the City crews or by private contractor hired by the City.

Any person who shall enter onto any private property to abate a public nuisance at the direction of any lawful order of the City shall be authorized to do so for that purpose.

3.10.20 Cost of Abatement – Assessment

If the City is forced to abate the nuisance and correct the situation, whatever it might be, upon the City's completion thereof, the Municipal Finance Officer shall bill the property owner or inhabitant therefore, and the bill shall be paid within thirty (30) days of receipt thereof. If the bill is not so paid within the time stated, the City may defray the cost of abating the public nuisance plus accrued interest, by taxing the cost thereof by special assessment against the property on which the nuisance occurred. The levying of such a special assessment shall not relieve the owner or inhabitant from prosecution or fine for violation of this Chapter.

3.10.22 Injury to Private Trees

It shall be unlawful for any person to remove, transplant, cut, trim, break, mark, cover, or in any way or manner injure or cause disease to any tree of another, or otherwise make any attachments to any tree of another by way of wire, string, nails, rope of the like.

3.10.24 Injury While Moving

No person shall move any structure or other article along any street, alley or public way in such a manner so as to cause potential injury to any tree. If any such movement requires trimming or removal of any tree, any such trimming or removal shall be done by a licensed arborist under the supervision or direction of the City, at the cost of the person doing the moving. Should tree injury or death result from anyone violating this Section that person shall, at his expense, correct or replace the tree, and be subject to prosecution for violation hereof.

3.10.26 Tree Topping

It shall be unlawful for any person to top any tree such that its limbs are severely cut back to stubs larger than three (3) inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree, except with the prior approval of the City as in the case of storm damage or necessity for existing older trees near utilities.

Chapter 3.14: Dutch Elm Disease

Section

3.14.02	Nuisance
3.14.04	Inspection
3.14.06	Removal of Nuisance
3.14.08	Assessment of Cost of Removal and Spraying
3.14.10	Reporting of Costs
3.14.99	Penalty

3.14.02 Nuisance

Any living or standing elm tree or part thereof infected with Dutch Elm Disease fungus, *Ceratocystis ulmi*, or which harbors the European Elm Bark Beetle, *Scolytus multistriatus* (Eichb.) and/or the American Elm Bark Beetle, *Hylurgopinus rufipes* (Marsh.) is hereby declared to be a public nuisance.

Any dead elm tree or part thereof including logs, branches, stumps, firewood or other elm material from which the bark has been removed and burned, or treated with an effective elm bark beetle destroying insecticide is hereby declared to be a public nuisance.

3.14.04 Inspection

A city representative or State Forester shall inspect or cause to be inspected all premises and places within the City of Clark at least once each year to determine whether any public nuisance as defined herein exists thereon, and shall also inspect or cause to be inspected any elm tree reported or suspected to be infected with Dutch Elm Disease or any elm bark reported or suspected to be infested with either species of the above named bark beetles.

3.14.06 Removal of Nuisance

- (1) If pursuant to the above-referenced inspection, it is determined that any public nuisance as herein defined exists in or upon a public street, alley, park or public place within the City of Clark, the city representative shall immediately cause it to be removed and burned or otherwise abate the same.
- (2) If upon inspection or examination it shall be determined with reasonable certainty that any public nuisance as herein defined exists in or upon private premises within the City of Clark, immediately written notice shall be served, either personally or by Certified Mail, upon the owner of such property, if he can be found, or upon the occupant thereof, to remove such nuisance within thirty (30) days of service of said notice. If said owner or occupant does not remove said nuisance within the time specified in such notice, the City Council shall cause it

- to be removed and burned or otherwise abate the same. No damage shall be awarded to the owner for destruction of any elm tree, elm wood or any part thereof pursuant to this section. The tree is presumed to be diseased and subject to removal unless said owner or occupant has shown that the tree is not so diseased by sending in specimens to the plant pathology department of South Dakota State University, in Brookings, and received a negative report thereon.
- (3) All removals shall be made in such manner as to destroy or prevent as fully as possible the spread of Dutch Elm Disease or the inspect pest or vectors know to carry such disease fungus.
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3.14.08 Assessment of Cost of Removal and Spraying

The entire cost of any removal of a public nuisance as herein defined on any public street, alley, park or other public place shall be borne by the City. The cost of removing elm trees infected with the Dutch Elm fungus on private property shall be borne by the property owner. If said owner fails to abate such nuisance by the removal of said tree or trees within the thirty (30) day notice period, said tree or trees shall be removed by the City and the cost of said removal either assessed against the property or recovered in a civil action against the owner.

3.14.10 Reporting of Costs

The city representative shall keep strict account of the costs of work done under this chapter for which assessments are to be made, stating and certifying the description of the land, lots, parts or lots or parcels of land and the amounts chargeable to each lot or parcel as recorded by him and such amounts shall be levied and assessed against said parcels or lots in the same manner as provided by state law on these ordinances.

3.14.99 Penalty

Any person violating any of the provisions of this article shall be guilty of a municipal ordinance violation punishable by a fine not to exceed two hundred dollars (\$200.00) or by imprisonment not to exceed thirty days or by both such fine and imprisonment, and each and every day that the violation continues shall constitute a separate offense.

Chapter 3.99: Punishment

Section

3.99.02 Punishment

3.99.02 Punishment

Any person violating any of the provisions of this title shall be guilty of a misdemeanor and upon conviction therefore shall be subject to a fine as set by the current year's Schedule of Fines Resolution. Each day or portion thereof during which a violation of this title shall continue shall be deemed a separate offense.

2012 International Property Maintenance Code

Adopted by City Ordinance # 515

CHAPTER 1 SCOPE AND ADMINISTRATION

PART 1 — SCOPE AND APPLICATION

SECTION 101 GENERAL

101.1 Title. These regulations shall be known as the *International Property Maintenance Code* of the City of Clark, hereinafter referred to as “this code.”

101.2 Scope. The provisions of this code shall apply to all existing residential and nonresidential structures and all existing *premises* and constitute minimum requirements and standards for *premises*, structures, equipment and facilities for light, *ventilation*, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance; the responsibility of *owners*, *operators* and *occupants*; the *occupancy* of existing structures and *premises*, and for administration, enforcement and penalties.

101.3 Intent. This code shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare insofar as they are affected by the continued *occupancy* and maintenance of structures and *premises*. Existing structures and *premises* that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein.

101.4 Severability. If a section, subsection, sentence, clause or phrase of this code is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

SECTION 102 APPLICABILITY

102.1 General. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall govern. Where differences occur between provisions of this code and the referenced standards, the provisions of this code shall apply. Where, in a specific case, different sections of this code specify different

requirements, the most restrictive shall govern.

102.2 Maintenance. Equipment, systems, devices and safeguards required by this code or a previous regulation or code under which the structure or *premises* was constructed, altered or repaired shall be maintained in good working order. No *owner*, *operator* or *occupant* shall cause any service, facility, equipment or utility which is required under this section to be removed from or shut off from or discontinued for any occupied dwelling, except for such temporary interruption as necessary while repairs or alterations are in progress. The requirements of this code are not intended to provide the basis for removal or abrogation of fire protection and safety systems and devices in existing structures. Except as otherwise specified herein, the *owner* or the *owner's* designated agent shall be responsible for the maintenance of buildings, structures and *premises*.

102.3 Application of other codes. Repairs, additions or alterations to a structure, or changes of *occupancy*, shall be done in accordance with the procedures and provisions of the *International Building Code*, *International Energy Conservation Code*, *International Fire Code*, *International Fuel Gas Code*, *International Mechanical Code*, *International Residential Code*, *International Plumbing Code* and NFPA 70. Nothing in this code shall be construed to cancel, modify or set aside any provision of the *International Zoning Code*.

102.4 Existing remedies. The provisions in this code shall not be construed to abolish or impair existing remedies of the jurisdiction or its officers or agencies relating to the removal or demolition of any structure which is dangerous, unsafe and insanitary.

102.5 Workmanship. Repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of this code shall be executed and installed in a *workmanlike* manner and installed in accordance with the manufacturer's instructions.

102.6 Historic buildings. The provisions of this

code shall not be mandatory for existing buildings or structures designated as historic buildings when such buildings or structures are judged by the *code official* to be safe and in the public interest of health, safety and welfare.

102.7 Referenced codes and standards. The codes and standards referenced in this code shall be those that are listed in Chapter 8 and considered part of the requirements of this code to the prescribed extent of each such reference and as further regulated in Sections 102.7.1 and 102.7.2.

Exception: Where enforcement of a code provision would violate the conditions of the listing of the equipment or appliance, the conditions of the listing shall apply.

102.7.1 Conflicts. Where conflicts occur between provisions of this code and the referenced standards, the provisions of this code shall apply.

102.7.2 Provisions in referenced codes and standards. Where the extent of the reference to a referenced code or standard includes subject matter that is within the scope of this code, the provisions of this code, as applicable, shall take precedence over the provisions in the referenced code or standard.

102.8 Requirements not covered by code. Requirements necessary for the strength, stability or proper operation of an existing fixture, structure or equipment, or for the public safety, health and general welfare, not specifically covered by this code, shall be determined by the *code official*.

102.9 Application of references. References to chapter or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section or provision of this code.

102.10 Other laws. The provisions of this code shall not be deemed to nullify any provisions of local, state or federal law.

PART 2 — ADMINISTRATION AND ENFORCEMENT

SECTION 103 DEPARTMENT OF PROPERTY MAINTENANCE INSPECTION

103.1 General. The department of property maintenance inspection is hereby created and the

executive official in charge thereof shall be known as the *code official*.

103.2 Appointment. The *code official* shall be appointed by the chief appointing authority of the jurisdiction.

103.3 Deputies. In accordance with the prescribed procedures of this jurisdiction and with the concurrence of the appointing authority, the *code official* shall have the authority to appoint a deputy(s). Such employees shall have powers as delegated by the *code official*.

103.4 Liability. The *code official*, member of the board of appeals or employee charged with the enforcement of this code, while acting for the jurisdiction, in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act or by reason of an act or omission in the discharge of official duties. Any suit instituted against any officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The *code official* or any subordinate shall not be liable for costs in an action, suit or proceeding that is instituted in pursuance of the provisions of this code.

103.5 Fees. The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be as indicated in the following schedule.

Reference Resolution # 814 or any such future fee resolutions replacing Resolution #814.

SECTION 104 DUTIES AND POWERS OF THE CODE OFFICIAL

104.1 General. The *code official* is hereby authorized and directed to enforce the provisions of this code. The *code official* shall have the authority to render interpretations of this code and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this code. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this code.

104.2 Inspections. The *code official* shall make all of the required inspections, or shall accept reports of inspection by *approved* agencies or individuals. All reports of such inspections shall be in writing and be certified by a responsible officer of such *approved* agency or by the responsible individual. The *code official* is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority.

104.3 Right of entry. Where it is necessary to make an inspection to enforce the provisions of this code, or whenever the *code official* has reasonable cause to believe that there exists in a *structure* or upon a *premises* a condition in violation of this code, the *code official* is authorized to enter the *structure* or *premises* at reasonable times to inspect or perform the duties imposed by this code, provided that if such *structure* or *premises* is occupied the *code official* shall present credentials to the *occupant* and request entry. If such *structure* or *premises* is unoccupied, the *code official* shall first make a reasonable effort to locate the *owner* or other person having charge or control of the *structure* or *premises* and request entry. If entry is refused, the *code official* shall have recourse to the remedies provided by law to secure entry.

104.4 Identification. The *code official* shall carry proper identification when inspecting *structures* or *premises* in the performance of duties under this code.

104.5 Notices and orders. The *code official* shall issue all necessary notices or orders to ensure compliance with this code.

104.6 Department records. The *code official* shall keep official records of all business and activities of the department specified in the provisions of this code. Such records shall be retained in the official records for the period required for retention of public records.

SECTION 105 APPROVAL

105.1 Modifications. Whenever there are practical difficulties involved in carrying out the provisions of this code, the *code official* shall have the authority to grant modifications for individual cases upon application of the *owner* or *owner's* representative, provided the *code official* shall first find that special individual reason makes the strict letter of this code impractical and the modification

is in compliance with the intent and purpose of this code and that such modification does not lessen health, life and fire safety requirements. The details of action granting modifications shall be recorded and entered in the department files.

105.2 Alternative materials, methods and equipment.

The provisions of this code are not intended to prevent the installation of any material or to prohibit any method of construction not specifically prescribed by this code, provided that any such alternative has been *approved*. An alternative material or method of construction shall be *approved* where the *code official* finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety.

105.3 Required testing. Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the *code official* shall have the authority to require tests to be made as evidence of compliance at no expense to the jurisdiction.

105.3.1 Test methods. Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the *code official* shall be permitted to approve appropriate testing procedures performed by an *approved* agency.

105.3.2 Test reports. Reports of tests shall be retained by the *code official* for the period required for retention of public records.

105.4 Used material and equipment. The use of used materials which meet the requirements of this code for new materials is permitted. Materials, equipment and devices shall not be reused unless such elements are in good repair or have been reconditioned and tested when necessary, placed in good and proper working condition and *approved* by the *code official*.

105.5 Approved materials and equipment. Materials, equipment and devices *approved* by the *code official* shall be constructed and installed in accordance with such approval.

105.6 Research reports. Supporting data, where necessary to assist in the approval of materials or

assemblies not specifically provided for in this code, shall consist of valid research reports from *approved* sources.

SECTION 106 VIOLATIONS

106.1 Unlawful acts. It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of this code.

106.2 Notice of violation. The *code official* shall serve a notice of violation or order in accordance with Section 107.

106.3 Prosecution of violation. Any person failing to comply with a notice of violation or order served in accordance with Section 107 shall be deemed guilty of a misdemeanor or civil infraction as determined by the local municipality, and the violation shall be deemed a *strict liability offense*. If the notice of violation is not complied with, the *code official* shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful *occupancy* of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto. Any action taken by the authority having jurisdiction on such *premises* shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

106.4 Violation penalties. Any person who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, shall be prosecuted within the limits provided by state or local laws. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

106.5 Abatement of violation. The imposition of the penalties herein prescribed shall not preclude the legal officer of the jurisdiction from instituting appropriate action to restrain, correct or abate a violation, or to prevent illegal *occupancy* of a building, structure or *premises*, or to stop an illegal act, conduct, business or utilization of the building, structure or *premises*.

SECTION 107 NOTICES AND ORDERS

107.1 Notice to person responsible. Whenever the *code official* determines that there has been a violation of this code or has grounds to believe

that a violation has occurred, notice shall be given in the manner prescribed in Sections 107.2 and 107.3 to the person responsible for the violation as specified in this code. Notices for condemnation procedures shall also comply with Section 108.3.

107.2 Form. Such notice prescribed in Section 107.1 shall be in accordance with all of the following:

1. Be in writing.
2. Include a description of the real estate sufficient for identification.
3. Include a statement of the violation or violations and why the notice is being issued.
4. Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the *dwelling unit* or structure into compliance with the provisions of this code.
5. Inform the property *owner* of the right to appeal.
6. Include a statement of the right to file a lien in accordance with Section 106.3.

107.3 Method of service. Such notice shall be deemed to be properly served if a copy thereof is:

1. Delivered personally;
2. Sent by certified or first-class mail addressed to the last known address; or
3. If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.

107.4 Unauthorized tampering. Signs, tags or seals posted or affixed by the *code official* shall not be mutilated, destroyed or tampered with, or removed without authorization from the *code official*.

107.5 Penalties. Penalties for noncompliance with orders and notices shall be as set forth in Section 106.4.

107.6 Transfer of ownership. It shall be unlawful for the *owner* of any *dwelling unit* or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of such *dwelling unit* or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until such *owner* shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance

order or notice of violation issued by the *code official* and shall furnish to the *code official* a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

SECTION 108 UNSAFE STRUCTURES AND EQUIPMENT

108.1 General. When a structure or equipment is found by the *code official* to be unsafe, or when a structure is found unfit for human *occupancy*, or is found unlawful, such structure shall be *condemned* pursuant to the provisions of this code.

108.1.1 Unsafe structures. An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the *occupants* of the structure by not providing minimum safeguards to protect or warn *occupants* in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

108.1.2 Unsafe equipment. Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the *premises* or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or *occupants* of the *premises* or structure.

108.1.3 Structure unfit for human occupancy. A structure is unfit for human *occupancy* whenever the *code official* finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, or lacks *ventilation*, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the *occupants* of the structure or to the public.

108.1.4 Unlawful structure. An unlawful structure is one found in whole or in part to be occupied by more persons than permitted under

this code, or was erected, altered or occupied contrary to law.

108.1.5 Dangerous structure or premises. For the purpose of this code, any structure or *premises* that has any or all of the conditions or defects described below shall be considered dangerous:

1. Any door, aisle, passageway, stairway, exit or other means of egress that does not conform to the *approved* building or fire code of the jurisdiction as related to the requirements for existing buildings.

2. The walking surface of any aisle, passageway, stairway, exit or other means of egress is so warped, worn loose, torn or otherwise unsafe as to not provide safe and adequate means of egress.

3. Any portion of a building, structure or appurtenance that has been damaged by fire, earthquake, wind, flood, *deterioration*, *neglect*, abandonment, vandalism or by any other cause to such an extent that it is likely to partially or completely collapse, or to become *detached* or dislodged.

4. Any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof that is not of sufficient strength or stability, or is not so *anchored*, attached or fastened in place so as to be capable of resisting natural or artificial loads of one and one-half the original designed value.

5. The building or structure, or part of the building or structure, because of dilapidation, *deterioration*, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fail or give way.

6. The building or structure, or any portion thereof, is clearly unsafe for its use and *occupancy*.

7. The building or structure is *neglected*, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children who might play in the building or structure to their danger, becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful act.

8. Any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the *approved* building or fire code of the jurisdiction, or of any law or ordinance to such an extent as to present either a substantial risk of fire, building collapse or any other threat to life and safety.

9. A building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, *ventilation*, mechanical or plumbing system, or otherwise, is determined by the *code official* to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.

10. Any building or structure, because of a lack of sufficient or proper fire-resistance-rated construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system or other cause, is determined by the *code official* to be a threat to life or health.

11. Any portion of a building remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned so as to constitute such building or portion thereof as an attractive nuisance or hazard to the public.

108.2 Closing of vacant structures. If the structure is vacant and unfit for human habitation and *occupancy*, and is not in danger of structural collapse, the *code official* is authorized to post a placard of condemnation on the *premises* and order the structure closed up so as not to be an attractive nuisance. Upon failure of the *owner* to close up the *premises* within the time specified in the order, the *code official* shall cause the *premises* to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate and may be collected by any other legal resource.

108.2.1 Authority to disconnect service utilities. The *code official* shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by this code and the referenced codes and standards set forth in Section 102.7 in case

of emergency where necessary to eliminate an immediate hazard to life or property or when such utility connection has been made without approval. The *code official* shall notify the serving utility and, whenever possible, the *owner* and *occupant* of the building, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnection the *owner* or *occupant* of the building structure or service system shall be notified in writing as soon as practical thereafter.

108.3 Notice. Whenever the *code official* has *condemned* a structure or equipment under the provisions of this section, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the *owner* or the person or persons responsible for the structure or equipment in accordance with Section 107.3. If the notice pertains to equipment, it shall also be placed on the *condemned* equipment. The notice shall be in the form prescribed in Section 107.2.

108.4 Placarding. Upon failure of the *owner* or person responsible to comply with the notice provisions within the time given, the *code official* shall post on the *premises* or on defective equipment a placard bearing the word "Condemned" and a statement of the penalties provided for occupying the *premises*, operating the equipment or removing the placard.

108.4.1 Placard removal. The *code official* shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the *code official* shall be subject to the penalties provided by this code.

108.5 Prohibited occupancy. Any occupied structure *condemned* and placarded by the *code official* shall be vacated as ordered by the *code official*. Any person who shall occupy a placarded *premises* or shall operate placarded equipment, and any *owner* or any person responsible for the *premises* who shall let anyone occupy a placarded *premises* or operate placarded equipment shall be liable for the penalties provided by this code.

108.6 Abatement methods. The *owner*, *operator* or *occupant* of a building, *premises* or equipment deemed unsafe by the *code official* shall abate or cause to be abated or corrected such unsafe conditions either by repair, rehabilitation, demolition or other *approved* corrective action.

108.7 Record. The *code official* shall cause a

report to be filed on an unsafe condition. The report shall state the *occupancy* of the structure and the nature of the unsafe condition.

SECTION 109 EMERGENCY MEASURES

109.1 Imminent danger. When, in the opinion of the *code official*, there is *imminent danger* of failure or collapse of a building or structure which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building *occupants* or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the *code official* is hereby authorized and empowered to order and require the *occupants* to vacate the *premises* forthwith. The *code official* shall cause to be posted at each entrance to such structure a notice reading as follows: "This Structure Is Unsafe and Its Occupancy Has Been Prohibited by the Code Official." It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same.

109.2 Temporary safeguards. Notwithstanding other provisions of this code, whenever, in the opinion of the *code official*, there is *imminent danger* due to an unsafe condition, the *code official* shall order the necessary work to be done, including the boarding up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the *code official* deems necessary to meet such emergency.

109.3 Closing streets. When necessary for public safety, the *code official* shall temporarily close structures and close, or order the authority having jurisdiction to close, sidewalks, streets, *public ways* and places adjacent to unsafe structures, and prohibit the same from being utilized.

109.4 Emergency repairs. For the purposes of this section, the *code official* shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

109.5 Costs of emergency repairs. Costs incurred in the performance of emergency work shall be paid by the jurisdiction. The legal counsel of the

jurisdiction shall institute appropriate action against the *owner* of the *premises* where the unsafe structure is or was located for the recovery of such costs.

109.6 Hearing. Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon petition directed to the appeals board, be afforded a hearing as described in this code.

SECTION 110 DEMOLITION

110.1 General. The *code official* shall order the *owner* of any *premises* upon which is located any structure, which in the *code official* judgment after review is so deteriorated or dilapidated or has become so out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary, or to board up and hold for future repair or to demolish and remove at the *owner's* option; or where there has been a cessation of normal construction of any structure for a period of more than two years, the *code official* shall order the *owner* to demolish and remove such structure, or board up until future repair. Boarding the building up for future repair shall not extend beyond one year, unless *approved* by the building official.

110.2 Notices and orders. All notices and orders shall comply with Section 107.

110.3 Failure to comply. If the *owner* of a *premises* fails to comply with a demolition order within the time prescribed, the *code official* shall cause the structure to be demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

110.4 Salvage materials. When any structure has been ordered demolished and removed, the governing body or other designated officer under said contract or arrangement aforesaid shall have the right to sell the salvage and valuable materials at the highest price obtainable. The net proceeds of such sale, after deducting the expenses of such demolition and removal, shall be promptly remitted with a report of such sale or transaction,

including the items of expense and the amounts deducted, for the person who is entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.

SECTION 111 MEANS OF APPEAL

111.1 Application for appeal. Any person directly affected by a decision of the *code official* or a notice or order issued under this code shall have the right to appeal to the board of appeals, provided that a written application for appeal is filed within 20 days after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means.

111.2 Membership of board. The board of appeals shall consist of a minimum of three members who are qualified by experience and training to pass on matters pertaining to property maintenance and who are not employees of the jurisdiction. The *code official* shall be an ex-officio member but shall have no vote on any matter before the board. The board shall be appointed by the chief appointing authority, and shall serve staggered and overlapping terms.

111.2.1 Alternate members. The chief appointing authority shall appoint a minimum of two alternate members who shall be called by the board chairman to hear appeals during the absence or disqualification of a member. Alternate members shall possess the qualifications required for board membership.

111.2.2 Chairman. The board shall annually select one of its members to serve as chairman.

111.2.3 Disqualification of member. A member shall not hear an appeal in which that member has a personal, professional or financial interest.

111.2.4 Secretary. The chief administrative officer shall designate a qualified person to serve as secretary to the board. The secretary shall file a detailed record of all proceedings in the office of the chief administrative officer.

111.2.5 Compensation of members. Compensation of members shall be determined by law.

111.3 Notice of meeting. The board shall meet upon notice from the chairman, within 20 days of the filing of an appeal, or at stated periodic meetings.

111.4 Open hearing. All hearings before the board shall be open to the public. The appellant, the appellant's representative, the *code official* and any person whose interests are affected shall be given an opportunity to be heard. A quorum shall consist of a minimum of two-thirds of the board membership.

111.4.1 Procedure. The board shall adopt and make available to the public through the secretary procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.

111.5 Postponed hearing. When the full board is not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.

111.6 Board decision. The board shall modify or reverse the decision of the *code official* only by a concurring vote of a majority of the total number of appointed board members.

111.6.1 Records and copies. The decision of the board shall be recorded. Copies shall be furnished to the appellant and to the *code official*.

111.6.2 Administration. The *code official* shall take immediate action in accordance with the decision of the board.

111.7 Court review. Any person, whether or not a previous party of the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of law. Application for review shall be made in the manner and time required by law following the filing of the decision in the office of the chief administrative officer.

111.8 Stays of enforcement. Appeals of notice and orders (other than *Imminent Danger* notices) shall stay the enforcement of the notice and order until the appeal is heard by the appeals board.

SECTION 112 STOP WORK ORDER

112.1 Authority. Whenever the *code official* finds any work regulated by this code being performed in a manner contrary to the provisions of this code

or in a dangerous or unsafe manner, the *code official* is authorized to issue a stop work order.

112.2 Issuance. A stop work order shall be in writing and shall be given to the *owner* of the property, to the *owner's* agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order and the conditions under which the cited work is authorized to resume.

112.3 Emergencies. Where an emergency exists,

the *code official* shall not be required to give a written notice prior to stopping the work.

112.4 Failure to comply. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not less than \$50 dollars or more than \$200 dollars.

CHAPTER 2 DEFINITIONS

SECTION 201 GENERAL

201.1 Scope. Unless otherwise expressly stated, the following terms shall, for the purposes of this code, have the meanings shown in this chapter.

201.2 Interchangeability. Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural, the singular.

201.3 Terms defined in other codes. Where terms are not defined in this code and are defined in the *International Building Code*, *International Existing Building Code*, *International Fire Code*, *International Fuel Gas Code*, *International Mechanical Code*, *International Plumbing Code*, *International Residential Code*, *International Zoning Code* or NFPA 70, such terms shall have the meanings ascribed to them as stated in those codes.

201.4 Terms not defined. Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

201.5 Parts. Whenever the words “dwelling unit,” “dwelling,” “premises,” “building,” “rooming house,” “rooming unit,” “housekeeping unit” or “story” are stated in this code, they shall be construed as though they were followed by the words “or any part thereof.”

SECTION 202 GENERAL DEFINITIONS

ANCHORED. Secured in a manner that provides positive connection.

APPROVED. *Approved* by the *code official*.

BASEMENT. That portion of a building which is partly or completely below grade.

BATHROOM. A room containing plumbing fixtures including a bathtub or shower.

BEDROOM. Any room or space used or intended to be used for sleeping purposes in either a dwelling or *sleeping unit*.

CODE OFFICIAL. The official who is charged with the administration and enforcement of this

code, or any duly authorized representative.

CONDEMN. To adjudge unfit for *occupancy*.

DETACHED. When a structural element is physically disconnected from another and that connection is necessary to provide a positive connection.

DETERIORATION. To weaken, disintegrate, corrode, rust or decay and lose effectiveness.

DWELLING UNIT. A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

EASEMENT. That portion of land or property reserved for present or future use by a person or agency other than the legal fee *owner(s)* of the property. The *easement* shall be permitted to be for use under, on or above a said lot or lots.

EQUIPMENT SUPPORT. Those structural members or assemblies of members or manufactured elements, including braces, frames, lugs, snuggers, hangers or saddles, that transmit gravity load, lateral load and operating load between the equipment and the structure.

EXTERIOR PROPERTY. The open space on the *premises* and on adjoining property under the control of *owners* or *operators* of such *premises*.

GARBAGE. The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.

GUARD. A building component or a system of building components located at or near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to a lower level.

HABITABLE SPACE. Space in a structure for living, sleeping, eating or cooking. *Bathrooms*, *toilet rooms*, closets, halls, storage or utility spaces, and similar areas are not considered *habitable spaces*.

HOUSEKEEPING UNIT. A room or group of rooms forming a single *habitable space* equipped and intended to be used for living, sleeping, cooking and eating which does not contain, within such a unit, a toilet, lavatory and bathtub or shower.

IMMINENT DANGER. A condition which could cause serious or life-threatening injury or death at any time.

INFESTATION. The presence, within or contiguous to, a structure or *premises* of insects, rats, vermin or other pests.

INOPERABLE MOTOR VEHICLE. A vehicle which cannot be driven upon the public streets for reason including but not limited to being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.

LABELED. Equipment, materials or products to which have been affixed a label, seal, symbol or other identifying mark of a nationally recognized testing laboratory, inspection agency or other organization concerned with product evaluation that maintains periodic inspection of the production of the above-labeled items and whose labeling indicates either that the equipment, material or product meets identified standards or has been tested and found suitable for a specified purpose.

LET FOR OCCUPANCY or LET. To permit, provide or offer possession or *occupancy* of a dwelling, *dwelling unit*, *rooming unit*, building, premise or structure by a person who is or is not the legal *owner* of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of land.

NEGLECT. The lack of proper maintenance for a building or *structure*.

OCCUPANCY. The purpose for which a building or portion thereof is utilized or occupied.

OCCUPANT. Any individual living or sleeping in a building, or having possession of a space within a building.

OPENABLE AREA. That part of a window, skylight or door which is available for unobstructed *ventilation* and which opens directly to the outdoors.

OPERATOR. Any person who has charge, care or control of a structure or *premises* which is let or offered for *occupancy*.

OWNER. Any person, agent, *operator*, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of

any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

PERSON. An individual, corporation, partnership or any other group acting as a unit.

PEST ELIMINATION. The control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food or water; by other *approved pest elimination* methods.

PREMISES. A lot, plot or parcel of land, *easement* or *public way*, including any structures thereon.

PUBLIC WAY. Any street, alley or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.

ROOMING HOUSE. A building arranged or occupied for lodging, with or without meals, for compensation and not occupied as a one- or two-family dwelling.

ROOMING UNIT. Any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.

RUBBISH. Combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, *yard* trimmings, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials.

SLEEPING UNIT. A room or space in which people sleep, which can also include permanent provisions for living, eating and either sanitation or kitchen facilities, but not both. Such rooms and spaces that are also part of a *dwelling unit* are not *sleeping units*.

STRICT LIABILITY OFFENSE. An offense in which the prosecution in a legal proceeding is not required to prove criminal intent as a part of its case. It is enough to prove that the defendant either did an act which was prohibited, or failed to do an act which the defendant was legally required to do.

STRUCTURE. That which is built or constructed or a portion thereof.

TENANT. A person, corporation, partnership or

group, whether or not the legal *owner* of record, occupying a building or portion thereof as a unit.

TOILET ROOM. A room containing a water closet or urinal but not a bathtub or shower.

ULTIMATE DEFORMATION. The deformation at which failure occurs and which shall be deemed to occur if the sustainable load reduces to 80 percent or less of the maximum strength.

VENTILATION. The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

WORKMANLIKE. Executed in a skilled manner; e.g., generally plumb, level, square, in line, undamaged and without marring adjacent work.

YARD. An open space on the same lot with a structure.

CHAPTER 3 GENERAL REQUIREMENTS

SECTION 301 GENERAL

301.1 Scope. The provisions of this chapter shall govern the minimum conditions and the responsibilities of persons for maintenance of structures, equipment and *exterior property*.

301.2 Responsibility. The *owner* of the *premises* shall maintain the structures and *exterior property* in compliance with these requirements, except as otherwise provided for in this code. A person shall not occupy as owner-occupant or permit another person to occupy *premises* which are not in a sanitary and safe condition and which do not comply with the requirements of this chapter. *Occupants* of a *dwelling unit*, *rooming unit* or *housekeeping unit* are responsible for keeping in a clean, sanitary and safe condition that part of the *dwelling unit*, *rooming unit*, *housekeeping unit* or *premises* which they occupy and control.

301.3 Vacant structures and land. All vacant structures and *premises* thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

SECTION 302 EXTERIOR PROPERTY AREAS

302.1 Sanitation. All *exterior property* and *premises* shall be maintained in a clean, safe and sanitary condition. The *occupant* shall keep that part of the *exterior property* which such *occupant* occupies or controls in a clean and sanitary condition.

302.2 Grading and drainage. All *premises* shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon. **Exception:** *Approved* retention areas and reservoirs.

302.3 Sidewalks and driveways. All sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions.

302.4 Weeds. All *premises* and *exterior property* shall be maintained free from weeds or plant

growth in excess of 6 inches. All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens.

Upon failure of the *owner* or agent having charge of a property to cut and destroy weeds after service of a notice of violation, they shall be subject to prosecution in accordance with Section 106.3 and as prescribed by the authority having jurisdiction. Upon failure to comply with the notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the costs of such removal shall be paid by the *owner* or agent responsible for the property.

302.5 Rodent harborage. All structures and *exterior property* shall be kept free from rodent harborage and *infestation*. Where rodents are found, they shall be promptly exterminated by *approved* processes which will not be injurious to human health. After pest elimination, proper precautions shall be taken to eliminate rodent harborage and prevent reinfestation.

302.6 Exhaust vents. Pipes, ducts, conductors, fans or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes directly upon abutting or adjacent public or private property or that of another *tenant*.

302.7 Accessory structures. All accessory structures, including *detached* garages, fences and walls, shall be maintained structurally sound and in good repair.

302.8 Motor vehicles. Except as provided for in other regulations, no inoperative or unlicensed motor vehicle shall be parked, kept or stored on any *premises*, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an *approved* spray booth.

Exception: A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and *approved* for such purposes.

302.9 Defacement of property. No person shall willfully or wantonly damage, mutilate or deface any exterior surface of any structure or building on any private or public property by placing thereon any marking, carving or graffiti. It shall be the responsibility of the *owner* to restore said surface to an *approved* state of maintenance and repair.

SECTION 303 SWIMMING POOLS, SPAS AND HOT TUBS

303.1 Swimming pools. Swimming pools shall be maintained in a clean and sanitary condition, and in good repair.

303.2 Enclosures. Private swimming pools, hot tubs and spas, containing water more than 24 inches (610 mm) in depth shall be completely surrounded by a fence or barrier at least 48 inches (1219 mm) in height above the finished ground level measured on the side of the barrier away from the pool. Gates and doors in such barriers shall be self-closing and self-latching. Where the self-latching device is a minimum of 54 inches (1372 mm) above the bottom of the gate, the release mechanism shall be located on the pool side of the gate. Self-closing and self-latching gates shall be maintained such that the gate will positively close and latch when released from an open position of 6 inches (152 mm) from the gatepost. No existing pool enclosure shall be removed, replaced or changed in a manner that reduces its effectiveness as a safety barrier.

Exception: Spas or hot tubs with a safety cover that complies with ASTM F 1346 shall be exempt from the provisions of this section.

SECTION 304 EXTERIOR STRUCTURE

304.1 General. The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

304.1.1 Unsafe conditions. The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the *International Building Code* or the *International Existing Building Code* as required for existing buildings:

1. The nominal strength of any structural member is exceeded by nominal loads, the load effects or the required strength;

2. The *anchorage* of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects;

3. Structures or components thereof that have reached their limit state;

4. Siding and masonry joints including joints between the building envelope and the perimeter of windows, doors and skylights are not maintained, weather resistant or water tight;

5. Structural members that have evidence of *deterioration* or that are not capable of safely supporting all nominal loads and load effects;

6. Foundation systems that are not firmly supported by footings, are not plumb and free from open cracks and breaks, are not properly *anchored* or are not capable of supporting all nominal loads and resisting all load effects;

7. Exterior walls that are not *anchored* to supporting and supported elements or are not plumb and free of holes, cracks or breaks and loose or rotting materials, are not properly *anchored* or are not capable of supporting all nominal loads and resisting all load effects;

8. Roofing or roofing components that have defects that admit rain, roof surfaces with inadequate drainage, or any portion of the roof framing that is not in good repair with signs of *deterioration*, fatigue or without proper anchorage and incapable of supporting all nominal loads and resisting all load effects;

9. Flooring and flooring components with defects that affect serviceability or flooring components that show signs of *deterioration* or fatigue, are not properly *anchored* or are incapable of supporting all nominal loads and resisting all load effects;

10. Veneer, cornices, belt courses, corbels, trim, wall facings and similar decorative features not properly anchored or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects;

11. Overhang extensions or projections including, but not limited to, trash chutes, canopies, marquees, signs, awnings, fire escapes, standpipes and exhaust ducts not properly *anchored* or that are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects;

12. Exterior stairs, decks, porches, balconies and all similar appurtenances attached thereto, including *guards* and handrails, are not structurally sound, not properly *anchored* or that are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects; or

13. Chimneys, cooling towers, smokestacks and similar appurtenances not structurally sound or not properly *anchored*, or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects.

Exceptions:

1. When substantiated otherwise by an *approved* method.
2. Demolition of unsafe conditions shall be permitted when *approved* by the *code official*.

304.2 Protective treatment. All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences, shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment.

Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints, as well as those between the building envelope and the perimeter of windows, doors and skylights, shall be maintained weather resistant and water tight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

304.3 Premises identification. Buildings shall have *approved* address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of 4 inches (102 mm) in height with a minimum stroke width of 0.5 inch (12.7 mm).

304.4 Structural members. All structural members shall be maintained free from *deterioration*, and shall be capable of safely supporting the imposed dead and live loads.

304.5 Foundation walls. All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests.

304.6 Exterior walls. All exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent *deterioration*.

304.7 Roofs and drainage. The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or *deterioration* in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

304.8 Decorative features. All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

304.9 Overhang extensions. All overhang extensions including, but not limited to canopies, marquees, signs, metal awnings, fire escapes, standpipes and exhaust ducts shall be maintained in good repair and be properly *anchored* so as to be kept in a sound condition. When required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather coating materials, such as paint or similar surface treatment.

304.10 Stairways, decks, porches and balconies. Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.

304.11 Chimneys and towers. All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

304.12 Handrails and guards. Every handrail and *guard* shall be firmly fastened and capable of supporting normally imposed loads and shall be

maintained in good condition.

304.13 Window, skylight and door frames. Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight.

304.13.1 Glazing. All glazing materials shall be maintained free from cracks and holes.

304.13.2 Openable windows. Every window, other than a fixed window, shall be easily openable and capable of being held in position by window hardware.

304.14 Insect screens. During the period from May to October, every door, window and other outside opening required for *ventilation* of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with *approved* tightly fitting screens of minimum 16 mesh per inch (16 mesh per 25 mm), and every screen door used for insect control shall have a self-closing device in good working condition.

Exception: Screens shall not be required where other *approved* means, such as air curtains or insect repellent fans, are employed.

304.15 Doors. All exterior doors, door assemblies, operator systems if provided, and hardware shall be maintained in good condition. Locks at all entrances to dwelling units and sleeping units shall tightly secure the door.

304.16 Basement hatchways. Every *basement* hatchway shall be maintained to prevent the entrance of rodents, rain and surface drainage water.

304.17 Guards for basement windows. Every *basement* window that is openable shall be supplied with rodent shields, storm windows or other *approved* protection against the entry of rodents.

304.18 Building security. Doors, windows or hatchways for *dwelling units*, room units or *housekeeping units* shall be provided with devices designed to provide security for the *occupants* and property within.

304.18.1 Doors. Doors providing access to a *dwelling unit*, *rooming unit* or *housekeeping unit* that is rented, leased or let shall be equipped with a deadbolt lock designed to be readily openable from the side from which egress is to be made without the need for keys, special

knowledge or effort and shall have a minimum lock throw of 1 inch (25 mm). Such deadbolt locks shall be installed according to the manufacturer's specifications and maintained in good working order. For the purpose of this section, a sliding bolt shall not be considered an acceptable deadbolt lock.

304.18.2 Windows. Operable windows located in whole or in part within 6 feet (1828 mm) above ground level or a walking surface below that provide access to a *dwelling unit*, *rooming unit* or *housekeeping unit* that is rented, leased or let shall be equipped with a window sash locking device.

304.18.3 Basement hatchways. *Basement* hatchways that provide access to a *dwelling unit*, *rooming unit* or *housekeeping unit* that is rented, leased or let shall be equipped with devices that secure the units from unauthorized entry.

304.19 Gates. All exterior gates, gate assemblies, operator systems if provided, and hardware shall be maintained in good condition. Latches at all entrances shall tightly secure the gates.

SECTION 305 INTERIOR STRUCTURE

305.1 General. The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. *Occupants* shall keep that part of the structure which they occupy or control in a clean and sanitary condition. Every *owner* of a structure containing a *rooming house*, *housekeeping units*, a hotel, a dormitory, two or more *dwelling units* or two or more nonresidential occupancies, shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and *exterior property*.

305.1.1 Unsafe conditions. The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the *International Building Code* or the *International Existing Building Code* as required for existing buildings:

1. The nominal strength of any structural member is exceeded by nominal loads, the load effects or the required strength;
2. The anchorage of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects;

3. Structures or components thereof that have reached their limit state;
4. Structural members are incapable of supporting nominal loads and load effects;
5. Stairs, landings, balconies and all similar walking surfaces, including *guards* and handrails, are not structurally sound, not properly *anchored* or are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects;
6. Foundation systems that are not firmly supported by footings are not plumb and free from open cracks and breaks, are not properly *anchored* or are not capable of supporting all nominal loads and resisting all load effects.

Exceptions:

1. When substantiated otherwise by an *approved* method.
2. Demolition of unsafe conditions shall be permitted when *approved* by the *code official*.

305.2 Structural members. All structural members shall be maintained structurally sound, and be capable of supporting the imposed loads.

305.3 Interior surfaces. All interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking or abraded paint shall be repaired, removed or covered. Cracked or loose plaster, decayed wood and other defective surface conditions shall be corrected.

305.4 Stairs and walking surfaces. Every stair, ramp, landing, balcony, porch, deck or other walking surface shall be maintained in sound condition and good repair.

305.5 Handrails and guards. Every handrail and *guard* shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

305.6 Interior doors. Every interior door shall fit reasonably well within its frame and shall be capable of being opened and closed by being properly and securely attached to jambs, headers or tracks as intended by the manufacturer of the attachment hardware.

**SECTION 306
COMPONENT SERVICEABILITY**

306.1 General. The components of a structure and

equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition.

306.1.1 Unsafe conditions. Where any of the following conditions cause the component or system to be beyond its limit state, the component or system shall be determined as unsafe and shall be repaired or replaced to comply with the *International Building Code* or the *International Existing*

Building Code as required for existing buildings:

1. Soils that have been subjected to any of the following conditions:

- 1.1. Collapse of footing or foundation system;
- 1.2. Damage to footing, foundation, concrete or other structural element due to soil expansion;
- 1.3. Adverse effects to the design strength of footing, foundation, concrete or other structural element due to a chemical reaction from the soil;
- 1.4. Inadequate soil as determined by a geotechnical investigation;
- 1.5. Where the allowable bearing capacity of the soil is in doubt; or
- 1.6. Adverse effects to the footing, foundation, concrete or other structural element due to the ground water table.

2. Concrete that has been subjected to any of the following conditions:

- 2.1. *Deterioration*;
- 2.2. *Ultimate deformation*;
- 2.3. Fractures;
- 2.4. Fissures;
- 2.5. Spalling;
- 2.6. Exposed reinforcement; or
- 2.7. *Detached*, dislodged or failing connections.

3. Aluminum that has been subjected to any of the following conditions:

- 3.1. *Deterioration*;
- 3.2. Corrosion;
- 3.3. Elastic deformation;
- 3.4. *Ultimate deformation*;

- 3.5. Stress or strain cracks;
- 3.6. Joint fatigue; or
- 3.7. *Detached*, dislodged or failing connections.
- 4. Masonry that has been subjected to any of the following conditions:
 - 4.1. *Deterioration*;
 - 4.2. *Ultimate deformation*;
 - 4.3. Fractures in masonry or mortar joints;
 - 4.4. Fissures in masonry or mortar joints;
 - 4.5. Spalling;
 - 4.6. Exposed reinforcement; or
 - 4.7. *Detached*, dislodged or failing connections.
- 5. Steel that has been subjected to any of the following conditions:
 - 5.1. *Deterioration*;
 - 5.2. Elastic deformation;
 - 5.3. *Ultimate deformation*;
 - 5.4. Metal fatigue; or
 - 5.5. *Detached*, dislodged or failing connections.
- 6. Wood that has been subjected to any of the following conditions:
 - 6.1. *Ultimate deformation*;
 - 6.2. *Deterioration*;
 - 6.3. Damage from insects, rodents and other vermin;
 - 6.4. Fire damage beyond charring;
 - 6.5. Significant splits and checks;
 - 6.6. Horizontal shear cracks;
 - 6.7. Vertical shear cracks;
 - 6.8. Inadequate support;
 - 6.9. *Detached*, dislodged or failing connections; or
 - 6.10. Excessive cutting and notching.

Exceptions:

- 1. When substantiated otherwise by an *approved* method.
- 2. Demolition of unsafe conditions shall be

permitted when *approved* by the *code official*.

**SECTION 307
HANDRAILS AND GUARDRAILS**

307.1 General. Every exterior and interior flight of stairs having more than four risers shall have a handrail on one side of the stair and every open portion of a stair, landing, balcony, porch, deck, ramp or other walking surface which is more than 30 inches (762 mm) above the floor or grade below shall have *guards*. Handrails shall not be less than 30 inches (762 mm) in height or more than 42 inches (1067 mm) in height measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces.

Guards shall not be less than 30 inches (762 mm) in height above the floor of the landing, balcony, porch, deck, or ramp or other walking surface.

Exception: *Guards* shall not be required where exempted by the adopted building code.

**SECTION 308
RUBBISH AND GARBAGE**

308.1 Accumulation of rubbish or garbage. All *exterior property* and *premises*, and the interior of every structure, shall be free from any accumulation of *rubbish* or garbage.

308.2 Disposal of rubbish. Every *occupant* of a structure shall dispose of all *rubbish* in a clean and sanitary manner by placing such *rubbish* in *approved* containers.

308.2.1 Rubbish storage facilities. The *owner* of every occupied *premises* shall supply *approved* covered containers for *rubbish*, and the *owner* of the *premises* shall be responsible for the removal of *rubbish*.

308.2.2 Refrigerators. Refrigerators and similar equipment not in operation shall not be discarded, abandoned or stored on *premises* without first removing the doors.

308.3 Disposal of garbage. Every *occupant* of a structure shall dispose of garbage in a clean and sanitary manner by placing such garbage in an *approved* garbage disposal facility or *approved* garbage containers.

308.3.1 Garbage facilities. The *owner* of every dwelling shall supply one of the following: an *approved* mechanical food waste grinder in each

dwelling unit; an *approved* incinerator unit in the structure available to the *occupants* in each *dwelling unit*; or an *approved* leakproof, covered, outside garbage container.

308.3.2 Containers. The *operator* of every establishment producing garbage shall provide, and at all times cause to be utilized, *approved* leakproof containers provided with close-fitting covers for the storage of such materials until removed from the *premises* for disposal.

SECTION 309 PEST ELIMINATION

309.1 Infestation. All structures shall be kept free from insect and rodent *infestation*. All structures in which insects or rodents are found shall be promptly exterminated by *approved* processes that will not be injurious to human health. After pest elimination, proper precautions shall be taken to prevent re-infestation.

309.2 Owner. The *owner* of any structure shall be responsible for pest elimination within the structure prior to renting or leasing the structure.

309.3 Single occupant. The *occupant* of a one-family dwelling or of a single-tenant nonresidential structure shall be responsible for pest elimination on the *premises*.

309.4 Multiple occupancy. The *owner* of a structure containing two or more *dwelling units*, a multiple *occupancy*, a *rooming house* or a nonresidential structure shall be responsible for pest elimination in the public or shared areas of the structure and *exterior property*. If *infestation* is caused by failure of an *occupant* to prevent such *infestation* in the area occupied, the *occupant* and *owner* shall be responsible for pest elimination.

309.5 Occupant. The *occupant* of any structure shall be responsible for the continued rodent and pest-free condition of the structure.

Exception: Where the *infestations* are caused by defects in the structure, the *owner* shall be responsible for pest elimination.

Title 4 – Animals

Chapter

4.02	Definitions
4.04	Running at Large Prohibited
4.06	Animals on School Grounds or Recreation Areas
4.08	Compulsory Immunization of Animals for Rabies
4.10	Responsibility of Owner to Place Animal for Observation
4.12	Vicious Animals
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4.14	Disturbance of Peace by Animals
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Chapter 4.02: Definitions

Section	
4.02.02	Animals
4.02.04	At Large
4.02.06	Health Officer
4.02.08	Owner
4.02.10	Animal Control Officer
4.02.12	Pet Shelter

4.02.02 Animals

The term animal or animals in this ordinance refers to domestic pets, more specifically, dogs and cats.

4.02.04 At Large

An animal shall be deemed to be running at large when off or away from the premises and not under the control of the owner, possessor, keeper, agent or a member of the family. An animal off or away from the premises shall nonetheless be deemed to be under the control of its owner, and shall not be deemed to be running at large, when the animal is fitted with a functioning electronic or wireless control device to which the animal has been trained and is responsive, the owner or a competent member of the owner's household is present and in immediate possession of the device's transmitter or control, and the animal in fact remains under control. An animal that is not responsive to the control of its owner shall be deemed to be running at large notwithstanding the presence of any such device.

4.02.06 Health Officer

The Sanitarian under the direction of and appointed by the Mayor.

4.02.08 Owner

Any person harboring or keeping an animal and who is the head of the household of the residence or the owner or manager in charge of the establishment or premises at which an animal remains or returns to, is the owner of the animal within the meaning of this ordinance.

4.02.10 Animal Control Officer

The person designated by the Mayor to be responsible for the enforcement of this Chapter together with such other duties as assigned by the Mayor.

4.02.12 Pet Shelter

A building and facilities therein approved by the Health Officer for the impounding of animals sometimes herein referred to as the animal pound.

4.02.14 Electronic or Wireless Control Device

An electronic or wireless control device means any functioning wearable electronic device designed to govern the movement of an animal through remote or automated correction, including a remote-activated electronic collar operated by the owner or a competent member of the owner's household and a wireless or GPS-based collar. The term does not include a device whose sole function is to deter or reduce barking.

Chapter 4.04: Running at Large Prohibited

Section	
4.04.02	Running at Large
4.04.04	Impounding
4.04.06	Obstructing Officer
4.04.08	Animal Pound
4.04.99	Penalty

4.04.02 Running at Large

Owner shall not permit their animals to run at large as defined in the provisions of this section.

4.04.04 Impounding

The City Council shall be authorized to appoint some person or persons, whose duty it shall be to impose any animals running at large, contrary to the provisions of this Chapter. Any police officer will likewise have such power.

4.04.06 Obstructing Officer

No person shall hinder, delay, or obstruct the Animal Control Officer, his assistants or any law enforcement officer when engaged in capturing, securing or impounding any animal or animals.

4.04.08 Animal Pound

The City Council shall be authorized to enter into a contract with some person, association or Humane Society to establish, operate and maintain an Animal Pound of Pet Shelter in and for the City. Control Officer and his duties, for the enforcement of this Chapter, for the impounding destroying and disposal of animals and for a schedule of fees to be charged for services rendered. The City may, in lieu of the provisions of this section, maintain its own impoundment area of quarters, under the supervision of the City Council.

4.04.99 Penalty

Any person violating any of the provisions of this title shall be guilty of a misdemeanor and upon conviction therefore shall be subject to a fine as set by the current year's Schedule of Fines Resolution. Each day or portion thereof during which a violation of this title shall continue shall be deemed a separate offense.

Chapter 4.06: Animals on School Grounds or Recreation Areas

Section

4.06.02 Animals on the School Grounds or Recreation Areas

4.06.99 Penalty

4.06.02 Animals on the School Grounds or Recreation Areas

Owners shall not permit their animals on any school ground when school is in session. Animals shall not be permitted on any public recreation area unless the animal is controlled by a leash or other device to prevent the animal from biting any person or other animal.

4.06.99 Penalty

Any person violating any of the provisions of this title shall be guilty of a misdemeanor and upon conviction therefore shall be subject to a fine as set by the current year's Schedule of Fines Resolution. Each day or portion thereof during which a violation of this title shall continue shall be deemed a separate offense.

Chapter 4.08: Compulsory Immunization of Animals for Rabies

Section

4.08.02	Age and Intervals of Immunization
4.08.04	Immunization Following Acquisition
4.08.06	Impounded Animals, Immunization Prior to Release
4.08.08	Proof of Immunization
4.08.99	Penalty

4.08.02 Age and Intervals of Immunization

Every dog, cat or other animal held as a domestic pet in the City, six months of age or older, shall be immunized against rabies by a licensed veterinarian or other qualified person. Immunization against rabies shall be given at such intervals to guarantee immunity, and the minimum time period between vaccinations shall be determined by the available vaccine and based upon the recommendations and approval of the State Veterinarian.

4.08.04 Immunization Following Acquisition

Any owner acquiring a dog, cat or other animal by purchased, gift, birth or otherwise, shall have such animal immunized against rabies within one month following acquisition or when such animal reaches the age of six months.

4.08.06 Impounded Animals, Immunization Prior to Release

Any animal impounded shall not be released by the Animal Control Officer to any person until such animal has been immunized against rabies, provided, however, no animal so impounded shall be immunized if the owner can present a certificate of a current immunization having been previously performed.

4.08.08 Proof of Immunization

All veterinarians or other qualified person designated to immunize animals against rabies shall provide the owner at the time of immunization with a certificate or metallic tag showing the date of the immunization. Whenever metallic tags are so given for immunization, such metallic tags shall be worn by all animals on a collar, harness or chain when off the premises of the owner.

4.08.99 Penalty

Any person violating any of the provisions of this title shall be guilty of a misdemeanor and upon conviction therefore shall be subject to a fine as set by the current year's Schedule of Fines Resolution. Each day or portion thereof during which a violation of this title shall continue shall be deemed a separate offense.

Chapter 4.10: Responsibility of Owner to Place Animal for Observation

Section	
4.10.02	Observation Following Animal Bites
4.10.04	Examination by Veterinarian
4.10.06	Confinement for Observation
4.10.08	Suspected Cases, Report Required
4.10.10	Unlawful to Keep Infected Animal
4.10.12	Destruction of Rabid Animal
4.10.14	Muzzling Proclamation
4.10.99	Penalty

4.10.02 Observation Following Animal Bites

When any person owning or harboring a dog, cat or other animal has been notified that said animal has bitten or attacked any person, the owner shall within twenty-four (24) hours place the animal under the care and observation of the Animal Control Officer or a licensed veterinarian for a period not less than ten (10) days.

4.10.04 Examination by Veterinarian

At the end of the ten (10) day observation period, the animal shall be examined by a licensed veterinarian and if cleared by the veterinarian, may be reclaimed by the owner upon paying the expenses incident thereto.

4.10.06 Confinement for Observation

Any animal impounded or placed for observation, showing active sign of rabies, suspected of having rabies, or known to have been exposed to rabies, shall be confined under competent observation for such time as may be deemed necessary to determine a diagnosis.

4.10.08 Suspected Cases, Report Required

Any person who shall suspect that any animal in the City is infected with rabies, shall report said animal to the Animal Control Officer, the Police Department, or other health authority, describing the animal and giving the name and address of the owner if known. Any person within the City receiving information or reports of suspected rabies in wild animals or domestic animals shall report such information to the Police Department of the City.

4.10.10 Unlawful to Keep Infected Animal

No person shall knowingly harbor or keep any animal infected with rabies or any animal known to have been bitten by an animal known to have been infected with rabies.

4.10.12 Destruction of Rabid Animal

Any rabid animal may be destroyed by the Animal Control Officer or Police Department upon authorization in writing by the City Council.

4.10.14 Muzzling Proclamation

Whenever the Animal Control Officer or Police Department shall have determined that there is danger of the existence or spread of rabies in the City, such facts shall be made known to the City Council in writing. The Council, upon receipt of said facts, may by proclamation, in the interest of public safety and general welfare of the citizenry, order all animals muzzled when off the premises of the owner. Forty-eight (48) hours after the publication of said proclamation all animals found off the premises of the owner unmuzzled shall be seized and impounded or may be immediately destroyed if all reasonable efforts to seize said animals fail. All animals seized and impounded shall be held for observation as hereinbefore provided for not less than ten (10) days, and if cleared by a licensed veterinarian, may be claimed by the owner upon paying the expenses incidental thereto. Any animal not claimed may be disposed of as hereinbefore provided.

4.10.99 Penalty

Any person violating any of the provisions of this title shall be guilty of a misdemeanor and upon conviction therefore shall be subject to a fine as set by the current year's Schedule of Fines Resolution. Each day or portion thereof during which a violation of this title shall continue shall be deemed a separate offense.

Chapter 4.12: Vicious Animals

Section

4.12.02	Definition
4.12.04	Control of Vicious Animal off Owner's Premises
4.12.05	Control of Vicious Animal Indoors on Owner's Premises
4.12.06	Enclosure of Vicious Animal Outdoors on Owner's Premises
4.12.07	Requirement of Liability Insurance
4.12.08	Appeals
4.12.10	Impoundment of Vicious Animal
4.12.99	Penalty

4.12.02 Definition

An animal may be declared to be vicious within the meaning of this section when the animal shall have bitten any person and no provocation to incite such action has been reasonably established, or when a propensity to attack, bite or menace human beings or another animal such that a person or the animal's owner has a reasonable fear that they or their animal are in imminent danger of an attack, shall exist. Such declaration may be made by the Animal Control Officer or any officer of the Clark Police Department. Such declaration shall be made on the standard form of a uniform traffic citation but shall not serve as a complaint for criminal offense. Such declaration shall be served upon the owner of the animal in one of the following manners, to wit:

1. Personal service upon the owner;
 2. Personal service upon the owner or a resident of the premises upon which the animal is located; or
 3. Posting such declaration upon the front door, above the mailbox on the residence or on a conspicuous location near the kennel of an animal. For purposes of this section should a residence consist of a multi-family unit, the posting need only be made on an entrance to the building facing a city street or common parking lot. Such posting shall include the date of first posting which shall constitute the date of service.
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4.12.04 Control of Vicious Animal off Owner's Premises

No vicious animal shall be allowed off the premises of its owner unless muzzled, on a leash no longer than six (6') feet and under control of the owner or a member of the owner's family who is over eighteen (18) years of age.

4.12.05 Control of Vicious Animal Indoors on Owner's Premises

If a vicious animal is kept indoors on the owner's premises, the animal shall be under the control of the owner or a member of the owner's family who is over eighteen (18) years of age.

4.12.06 Enclosure of Vicious Animal Outdoors on Owner's Premises

No vicious animal shall be allowed outdoors in an area on the owner's premises which is not enclosed within a six foot (6') high solid wall in which no path of ingress and egress exists except for one gated and latched entrance which must be locked at any time the animal is in the enclosure. Further, a sign denoting the presence of a vicious animal shall be displayed on the enclosure and also on a place visible from the sidewalk or road adjacent to the property where the vicious animal is kept.

4.12.07 Requirement of Liability Insurance

Any owner of a vicious animal shall be required to carry a \$100,000.00 liability insurance policy covering the medical and/or veterinary costs resulting from the vicious actions or any other damage the declared vicious animal may do or cause to be done. Proof of such insurance shall be filed with the Clark Police Department.

4.12.08 Appeals

An owner may appeal such declaration to the City Council by filing with the Chief of Police or the City Finance Officer a written statement of objection or appeal to the declaration of vicious animal. Such written statement of objection or appeal must be filed within ten (10) days of the date of service. Within ten (10) days of the date of filing the appeal, the City Council shall hear such appeal and determine whether it has been shown by a preponderance of the evidence that such animal is vicious.

4.12.10 Impoundment of Vicious Animal

Any vicious animal which is found on or off the premises of its owner other than as provided herein shall be seized by the Animal Control officer and/or the Police Officer and impounded. If the vicious animal cannot be captured without risking injury to the Animal Control Officer and/or Police Officer, it may be destroyed. Further, if the vicious animal has been seen running at large, or bites a person and it can be witnessed, the Animal Control Officer or a Police Officer may order the owner of the vicious animal to deliver the vicious animal to the animal pound within twenty-four (24) hours and the owner ordered to appear in court to show cause why the vicious animal should not be destroyed. Such order may be served in the same manner as the declaration of vicious animal described in Section 4.1202 above.

4.12.99 Penalty

Any person violating any of the provisions of this title shall be guilty of a misdemeanor and upon conviction therefore shall be subject to a fine as set by the current year's Schedule of Fines Resolution. Each day or portion thereof during which a violation of this title shall continue shall be deemed a separate offense.

Chapter 4.13: Number of Pets Limited

Section	
4.13.02	Number of Pets Limited
4.13.99	Penalty

4.13.02 Number of Pets Limited

It is unlawful for any person to have or to keep more than three domestic animals over the age of six months, except birds and fish, on any lot or premises in the municipality, unless such person residing on or in the lot or premises has a valid special exception to operate a kennel. Veterinarian offices and retail pet stores are exempt from the provisions of this section.

4.13.99 Penalty

Any person violating any of the provisions of this title shall be guilty of a misdemeanor and upon conviction therefore shall be subject to a fine as set by the current year's Schedule of Fines Resolution. Each day or portion thereof during which a violation of this title shall continue shall be deemed a separate offense.

Chapter 4.14: Disturbance of Peace by Animals

Section

4.14.02 Disturbance of Peace by Animals

4.14.99 Penalty

4.14.02 Disturbance of Peace by Animals

The owner of an animal shall not allow such animals to disturb the peace and quiet of the neighborhood, also construed to mean the City, through barking or any other manner possible. Upon complaint such owner shall be notified by the Police Department and said owner shall abate such nuisance.

4.14.99 Penalty

Any person violating any of the provisions of this title shall be guilty of a misdemeanor and upon conviction therefore shall be subject to a fine as set by the current year's Schedule of Fines Resolution. Each day or portion thereof during which a violation of this title shall continue shall be deemed a separate offense.

Chapter 4.16: Dog Kennels: Animals Disturbing the Public

Section

4.16.02 Dog Kennels: Animals Disturbing the Public

4.16.99 Penalty

4.16.02 Dog Kennels: Animals Disturbing the Public

It shall be unlawful for any person to keep a dog or dogs in a dog kennel nearer the house of a neighbor than fifty (50) feet. Such kennel shall be kept in a clean and sanitary condition, and not permitted to become stagnant, nauseous or a nuisance. The Health Officer shall cause a written notice to clean such kennel within 24 hours to be served when necessary.

4.16.99 Penalty

It shall be unlawful to keep within the limits of this City any animal, including cats, which causes a disturbance by barking or by being a nuisance to the annoyance or disturbance of the public.

Any person violating any of the provisions of this title shall be guilty of a misdemeanor and upon conviction therefore shall be subject to a fine as set by the current year's Schedule of Fines Resolution. Each day or portion thereof during which a violation of this title shall continue shall be deemed a separate offense.

Chapter 4.18: Cruelty to Animals

Section

4.18.02 Cruelty to Animals

4.18.99 Penalty

4.18.02 Cruelty to Animals

No person shall willfully or negligently maltreat or abuse or neglect in a cruel or inhumane manner any animal or fowl. It shall be unlawful for any person to willfully or maliciously administer or cause to be administered, poison of any sort whatsoever to an animal, on the property of another, with the intent to injure or destroy such animal, or to willfully or maliciously place any poison or poisoned food where the same is accessible to any such animal. (SDCL 9-29-11)

4.18.99 Penalty

Any person violating any of the provisions of this title shall be guilty of a misdemeanor and upon conviction therefore shall be subject to a fine as set by the current year's Schedule of Fines Resolution. Each day or portion thereof during which a violation of this title shall continue shall be deemed a separate offense.

Chapter 4.20: Strayed, Abandoned or Unkempt Animals

Section	
4.20.02	Stray, Abandoned or Unkempt Animals
4.20.99	Penalty

4.20.02 Stray, Abandoned or Unkempt Animals

No person shall harbor or keep any stray animals within the City. Animals known to be strays shall be reported to the Police Department immediately.

No person shall abandon an animal within the city limits of this City.

4.20.99 Penalty

Any person violating any of the provisions of this title shall be guilty of a misdemeanor and upon conviction therefore shall be subject to a fine as set by the current year's Schedule of Fines Resolution. Each day or portion thereof during which a violation of this title shall continue shall be deemed a separate offense.

Chapter 4.22: Livestock in City

Section

4.22.02 Livestock in City

4.22.99 Penalty

4.22.02 Livestock in City

No person shall keep or maintain any building or enclosure where livestock is kept, unless the same be at all times kept in a clean and sanitary condition. No person shall place, keep or maintain any live hogs within the City. (SDCL 9-29-11)

4.22.99 Penalty

Any person violating any of the provisions of this title shall be guilty of a misdemeanor and upon conviction therefore shall be subject to a fine as set by the current year's Schedule of Fines Resolution. Each day or portion thereof during which a violation of this title shall continue shall be deemed a separate offense.

Chapter 4.24: Keeping of Animals Other Than Dogs

Section	
4.24.02	Horses
4.24.04	Hooved Animals Other Than Horses
4.24.06	Domestic Fowl and Predators
4.24.08	Nuisance
4.24.10	Stallions, Bull, etc.
4.24.99	Penalty

4.24.02 Horses

It shall be unlawful for any person to maintain horses or to operate or maintain stables in any residential districts within the city limits of this City, unless signatures by petition of 100% of the adjoining land owners and 50% of the land owners with 300 feet of the same shall have signified approval thereof and provided further that said area be adequately fenced with woven wire, wood or equivalent fence at least 2 ½ feet high and plain strand for any higher fence.

- a. The City Council shall have authority to grant variance from the above requirements after notice and hearing.
 - b. Any area where horses are maintained shall be kept neat and orderly.
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4.24.04 Hooved Animals Other Than Horses

Excluding horses, no hooved animals shall be kept or maintained in any residential zone in this city. In other zoning districts, hooved animals may be kept with the special permission of the City Council.

4.24.06 Domestic Fowl and Predators

The keeping of domestic fowl such as ducks, geese and chickens or predators such as skunks, foxes or raccoons as pets shall be by special permission of the City Council.

4.24.08 Nuisance

The keeping of animals on any lots shall be on a scale or basis creating a nuisance.

4.24.10 Stallions, Bulls, etc.

Notwithstanding any of the above no un-neutered adult male or any species of hooved animal, including horses shall be kept or maintained with the City.

4.24.99 Penalty

Any person violating any of the provisions of this title shall be guilty of a misdemeanor and upon conviction therefore shall be subject to a fine as set by the current year's Schedule of Fines Resolution. Each day or portion thereof during which a violation of this title shall continue shall be deemed a separate offense.

Chapter 4.26: Responsibility

Section	
4.26.02	Transmission of Disease
4.26.04	Defecation on Public and Private Property
4.26.99	Penalty

4.26.02 Transmission of Disease

No person shall create or maintain any condition, or operate any equipment or keep any animal, fowl, pet or insect under his jurisdiction in such a way that such condition or operation causes or is likely to cause the transmission of diseases from animals or insects to man.

4.26.04 Defecation on Public and Private Property

No owner, keeper, caretaker or attendant of an animal shall allow an animal to defecate on public or private property other than his own. If such an animal does defecate upon public or private property, the owner, keeper, caretaker or attendant must immediately and thoroughly clean the fecal material from such property.

4.26.99 Penalty

Any person violating any of the provisions of this title shall be guilty of a misdemeanor and upon conviction therefore shall be subject to a fine as set by the current year's Schedule of Fines Resolution. Each day or portion thereof during which a violation of this title shall continue shall be deemed a separate offense.

Chapter 4.28: Impounding

Section	
4.28.02	Enforcement of Article
4.28.04	Pet Shelter Generally
4.28.06	Authority
4.28.08	Fees
4.28.10	Redemption of Unlicensed Dogs and Cats
4.28.12	Notice to Owner
4.28.14	Redemption by Person Other Than Owner
4.28.16	Disposition of Unredeemed Dogs and Cats
4.28.18	Impounding by Private Persons
4.28.20	Records Generally
4.28.22	Record of Bites
4.28.24	Injured Dogs and Cats
4.28.26	Alternative to Impounding

4.28.02 Enforcement of Article

It shall be the duty of the Animal Control Officer to carry out and enforce all the provisions of this article.

4.28.04 Pet Shelter Generally

The Animal Control Officer shall maintain a pet shelter in some convenient location which shall be sanitary, heated, ventilated and lighted. The Animal Control Officer shall establish emergency service to properly enforce the regulations and set forth in this Chapter.

4.28.06 Authority

The Health Officer, any policeman or any other person of proper authority is hereby authorized and empowered to impound any dog or cat found within the city in violation of any provisions of this Chapter.

4.28.08 Fees

When an owner redeems a dog or cat impounded under the provisions of this article, he shall pay prior to the release of the dog or cat from the pet shelter the sum of \$5.00 plus a per day cost in an amount equal to the actual cost of boarding such impounded animal,

said fees to be paid at the pet shelter or to the City Finance officer. Any person may redeem an unclaimed dog or cat after paying the Animal Control Officer the sum of \$5.00 plus the per day care cost above set out. Person bringing unwanted dogs or cats to the pet shelter for disposal shall pay a fee of \$5.00 minimum per dog or cat.

4.28.10 Redemption of Unlicensed Dogs and Cats

The owner of any impounded dog or cat which has not been licensed under this Chapter, upon satisfactory proof of ownership, shall be allowed forty-eight (48) hours to get such dog or cat properly licensed. If such owner fails to procure a city license within forty-eight (48) hours, the dog or cat shall be impounded again. It shall be the duty of the Animal Control Officer to inform the City Finance officer of the dogs and cats so released. It shall be the duty of the City Finance Officer to inform the Animal Control Officer of those dogs and cats that are not licensed as required by this section.

4.28.12 Notice to Owner

The owner of any dog or cat impounded under the provisions of this article, if his identity and location can be obtained by reasonable means, shall be notified within twenty-four (24) hours that his dog or cat has been impounded.

4.28.14 Redemption by Person Other Than Owner

If the owner of any dog or cat impounded under the provisions of this article shall fail to redeem such dog impounded within three (3) consecutive days not counting Sundays and holidays after such impounding, any other person may, upon complying with the provisions of this chapter, redeem such dog or cat from the pet shelter and be the lawful owner thereof.

4.28.16 Disposition of Unredeemed Dogs and Cats

All dogs and cats impounded under the provision of this ordinance and remaining unredeemed after five (5) consecutive days not counting Sundays and holidays of impounding, unless impounded for a longer specified time, may be disposed of by the Animal Control Officer by any humane means.

4.28.18 Impounding by Private Persons

The Animal Control Officer shall not receive any dog or cat into the pet shelter from any person unless such person shall leave his full name and place of residence, which shall be registered in a proper book kept by the Animal Control Officer. It shall be unlawful for any person to give any false information or statement concerning the owner, keeper or

harborer of any dog or cat or concerning any dog or cat brought into the pet shelter or impounded therein.

4.28.20 Records Generally

The Animal Control Officer shall keep an accurate record of all dog and cat bites. Such record shall be filled out in detail and kept on file by the Animal Control Officer for his record.

4.28.24 Injured Dogs and Cats

- (a) In those instances when a dog or cat without identification is injured and the owner cannot be found, it will be the duty of the Animal Control Officer to determine if, for humane reasons, due to the extent of the injury and suffering, that dog or cat shall be destroyed. The City and/or Animal Control Officer shall be destroyed. The City and/or Animal Control Officer shall not be held liable in any way for this humane act.
 - (b) In those instances when an injured dog or cat with a license tab issued by the City, is picked up, it shall be delivered to a licensed veterinarian. All expenses of the City, the veterinarian charges and fees must be paid by the pet owner.
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4.28.26 Alternative to Impounding

As an alternative to impounding the dog or cat in the pet shelter, if the owner is known to the Animal Control Officer, the said Animal Control officer may issue a notice to the owner that the dog or cat is in violation of this Chapter which said notice shall state the violation date, time, location, breed and color of the dog or cat, license number, if known, and the name and address of the owner of said dog or cat and which said notice shall direct the owner of said dog or cat to appear before the Magistrate Court to answer to the charge of such violation.

Chapter 4.30: Licensing

Section	
4.30.02	Licensing of Dogs and Cat
4.30.04	Application for License Certificate and Tag
4.30.06	License Fee Schedule
4.30.99	Penalty

4.30.02 Licensing of Dogs and Cats

Each owner or keeper of a dog or cat of the age of six months or over shall on or before January 30, bi-annually, or at such time as such dog or cat becomes six month old.

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4.30.04 Application for License Certificate and Tag

A license application shall be furnished by the City Finance Officer and must be accompanied by a rabies immunization certificate and the fee as established in Section 4.30.06.

A certificate and tag shall be issued upon receipt of a proper application for a license. The certificate shall at all times be in possession of the owner or keeper of the animal. The tag must at all times be worn by the licensed dog or cat.

4.30.06 License Fee Schedule

The fee for an animal license shall be \$10.00 for a two-year license. This rate can be prorated at the discretion of the Finance Office.

4.30.99 Penalty

Any person violating any of the provisions of this title shall be guilty of a misdemeanor and upon conviction therefore shall be subject to a fine as set by the current year's Schedule of Fines Resolution. Each day or portion thereof during which a violation of this title shall continue shall be deemed a separate offense.

Title 5 : Public Safety

Chapter

- 5.02 Alcoholic Beverages
 - 5.04 Fireworks and Explosives
 - 5.06 Minors
 - 5.08 Static
 - 5.10 Weapons
 - 5.12 Indecent Conduct
 - 5.16 Offenses Against Public Officer
 - 5.18 Offenses Against Property
 - 5.20 Miscellaneous Unlawful Conduct
 - 5.99 Penalty
-

Chapter 5.02: Alcoholic Beverages

Section

5.02.02	License Required
5.02.04	Application and License Fees
5.02.06	License Restrictions
5.02.08	Location of Business
5.02.10	Hours of Business
5.02.12	Number of Licenses
5.02.14	Revocation or Suspension of License
5.02.16	Sale, Serving or Allowing Consumption, Prohibited
5.02.22	Open Containers
5.02.99	Violations and Punishments

5.02.02 License Required

No person shall sell, offer for sale, keep for sale, exchange, distill, manufacture, produce, bottle, blend, or otherwise concoct, within the City any alcoholic beverage as defined by statute, without entering into an agreement with the City to operate under a City License. (SDCL 9-29-7)

5.02.04 Application and License Fees

In any instance in which an applicant may qualify, applications to operate under a City license for the sale of alcoholic beverages in the City shall be submitted as prescribed by South Dakota Codified Laws, as amended. (SDCL 35-4-2)

5.02.06 License Restrictions

Applications to operate under a City license for on-sale liquor, off-sale liquor, on-sale malt beverage, off-sale malt beverage, or on/off-sale beverage establishments shall have the necessary fees attached upon being submitted to the City Council as required by the South Dakota Codified Laws, as amended, and the granting and retention of such operating agreements under City licenses shall be as provided by South Dakota Codified Laws, as amended and local regulations. (SDCL 35-2-2)

5.02.08 Location of Business

The City Council shall not enter into an operating agreement with any person, business or group where the location of such a business or group where the location of such business would not be considered desirable in accordance with South Dakota Codified Laws, local

ordinances and regulations. (SDCL 35-2-6.2)

5.02.10 Hours of Business

No operator under City license shall sell, serve or allow to be consumed on a licensed premises any alcoholic beverage at any time or on any day not permitted by SDCL Chapter 35. Sale, service and allowed consumption of alcoholic beverages on Sundays and Memorial Day are authorized to full extent allowed by SDCL Chapter 35 for any respective licensee. Further, no operator of an on-sale liquor establishment shall allow to remain on the licensed premises any person who is not an essential employee engaged in either the cleaning of the establishment or doing daily required business tasks when the operator is not permitted by SDCL Chapter 35 to sell, serve or allow to be consumed on the premises any alcoholic beverage. Further, no operator of an on-sale liquor establishment shall allow alcoholic beverages of any kind to be sold later than one-half hour prior to the time that the operator is no longer permitted by SDCL Chapter 35 to sell, serve or allow to be consumed on the premises any alcoholic beverage.

5.02.12 Number of Licenses

- (a) The number of operators for all liquor and/or malt beverage licenses are subject to limitation set forth in SDCL Chapter 35.
 - (b) This ordinance shall not be construed as limiting the authority of said City to issue any temporary license for special events of civic, charitable, educational or fraternal organizations, pursuant to SDCL Chapter 35; or as limiting the authority of said City to give prior authorization for person to consume or blend alcoholic beverages, but not to engage in the sale thereof, in or upon property which is publicly own, or owned by a non-profit corporation, pursuant to SDCL 35-1-5.3 or acts amendatory thereof.
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5.02.14 Revocation or Suspension of Operating Agreement and License

The City Council may revoke or suspend any operating agreement issued under any provision of this chapter upon proof that the operator has violated any provision hereof, or any provision of Chapter 35 of the South Dakota Codified Laws or upon proof that such operator is unfit to perform the service authorized by such operating agreement and City license. Whenever information comes to said City Council which is believed by said Council to justify revocation of such operating agreement, notice shall be mailed to such operator at the address set out in the application made by such operator for an operating agreement and license hereunder stating the intention of such City Council to suspend or revoke said operating agreement and license, and informing said operator that he may have a public hearing before said City Council upon such question if he makes demand for such a hearing within three (3) days after mailing of such notice. The City Council, in its discretion, after hearing, may suspend or revoke if the evidence justifies

such action.

5.02.16 Sale, Serving or Allowing Consumption, Prohibited

No person shall sell or serve to any person, or allow any intoxicating liquor or malt beverage to be consumed by any person under the age set by SDCL Chapter 35 not shall any person become intoxicated on said premises. Further, no person under the age of 21 years shall be allowed to sell on or off-sale malt beverages.

5.02.22 Open Containers

It shall be unlawful to drink any alcoholic beverage or to possess any glass, can or other container containing an alcoholic beverage on which the seal has been broken in any public place, vacant building, automobile, street, alley, sidewalk or place of amusement or business establishment not authorized to sell such alcoholic beverage, unless approved by the City Council. (SDCL 35-1-5.3, SDCL 35-1-9.3)

5.02.99 Violations and Punishment

Any person, firm or licensee in violation of any of the provisions of this Chapter shall be deemed guilty of a misdemeanor. For failure to correct any offense when applicable, after conviction, each day of failure to do so shall constitute an additional separate offense. Whenever any person shall, as clerk, servant, agent or employee of any other establishment, violate any of the provisions of this Chapter he shall also be deemed as guilty as a principal. Failure to comply with all existing requirement including the provision of this Chapter, shall provide cause for revocation of any licenses granted under the provisions of the South Dakota codified Laws, as amended. (SDCL 35-2-10)

Chapter 5.04: Fireworks Regulations

Section

5.04.02 Sale of Fireworks

5.04.04 Period and Times to Discharge Fireworks

5.04.02 Sale of Fireworks

Permits to sell fireworks within the city limits of Clark will be considered on a case by case basis. Applications are to be made to the Finance Office and reviewed by City Council. Dates and times of sale will coincide with SDCL 34-37-10.

5.04.04 Exceptions Provided

It shall be unlawful to discharge fireworks before the hours of 11:00 a.m. and after 11:00 p.m. on the dates when the discharge of fireworks is allowed by the South Dakota law – before the twenty-seventh (27) of June and after the fifth (5) of July and before 1:00 p.m. from December 31st through and including January 1st to 1:00 am.

Special permit requests for firework displays during the unlawful time will be considered on a case by case basis by City Council.

Chapter 5.06: Minors

Section	
5.06.02	Curfew Hours and Exceptions
5.06.04	Responsibility of Officers
5.06.06	Responsibility of Parents or Guardians

5.06.02 Curfew Hours and Exceptions

It shall be unlawful for any person under the age of sixteen (16) years to be on the streets, allies or public grounds of the City between the hours of 11:00 P.M. and 5:00 A.M. on the following day, unless accompanied by parents, legal guardian or some adult person over eighteen (18) years of age having the care and control of said person. Excepted from this section of the code shall be persons going to and from approved school functions and activities and persons acting upon some necessary errand by written permission of a parent, guarding or person in control.

5.06.04 Responsibility of Officers

It shall be the duty of any police officer of the City to detain any person under the age of sixteen (16) years of age who violates any of the provisions of this chapter and to keep such persons detained until his or her parents, guardian or person in control shall appear and assume custody of said person under the age of sixteen (16) years.

5.06.06 Responsibility of Parents or Guardians

It shall be unlawful for the parents, guardian or other adult person having the care and custody of a minor under the age of sixteen (16) years to knowingly permit such a minor to be or remain in or upon the public streets, alleys, parks, playgrounds. Public grounds, public places, public building, public place of amusement and entertainment, vacant lots or other unsupervised public place within the City in violation of this ordinance except if the minor is accompanied by his or her parent, guardian, or other adult person having the care and custody of the minor or when the minor is upon a necessary errand or legitimate business directed or authorized by his or her parent, guardian or other adult person having the care and custody of the minor or said minor is on his way to or from an approved school function or activity.

Chapter 5.08: Static

Section	
5.08.02	Unlawful to Cause Static
5.080.4	Notice of Violation

5. 08.02 Unlawful to Cause Static

It shall be unlawful for any person, firm or corporation to operate or cause to be operated in the City any machine, device, apparatus or instrument of any kind whatsoever causing preventable or avoidable interference with television or radio broadcast receiving apparatus between the hours of seven o'clock a.m. and eleven o'clock p.m. of any day; provided, however that x-ray pictures, examinations or treatment may be made at any time if the machines or apparatus used therefore are properly equipped to avoid all unnecessary or reasonably preventable interference with television or radio reception and are not negligently operated.

This Chapter shall not be held or construed to embrace or cover the regulation of any transmitting, broadcasting or receiving instrument, apparatus or device used or useful in interstate commerce or the operation of which instrument, apparatus, or device is licensed or authorized by or under the provisions of any act of Congress of the United States.

5.08.04 Notice of Violation

When it is found that equipment or apparatus coming within the terms of this Chapter is being operated in violation of the Chapter the person or persons responsible for the operation shall be notified in writing to discontinue the use of such machine or make additions, repairs to modification thereof in order that the same may be operated in a manner which complies with the provisions of the Chapter. The mailing of a register letter addressed to the owner or operator of the machine at the premises where the machine or apparatus is located shall constitute a sufficient notice for the purpose of this Chapter. In the event that the owner or operator of such machine or apparatus does not within seven days after the receipt of notice to repair or discontinue the use of such machine during the hours the use of such machine is prohibited by this Chapter, or repair the same so that it complies with the provisions of this Chapter such owner shall be deemed to be operating such machine or apparatus in violation of the provisions of this Chapter and such person shall be subject to the penalties provided in Section 12.9902 of this Code.

Chapter 5.10: Weapons

Section

- 5.10.02 Discharging Firearms Prohibited
 - 5.10.04 Slingshot, Air Gun, Bow and Arrow
 - 5.10.06 Carrying Concealed Weapon
-

5.10.02 Discharging Firearms Prohibited

No person shall discharge or shoot off any gun, pistol or any other firearm within the City, unless permitted by City Council.

5.10.04 Slingshot, Air Gun, Bow and Arrow

No person shall use in a public place any slingshot, air gun or bow and arrow or other similar device, except under the active and present supervision of a supervisor whose qualifications have been approved by the Chief of Police and at a location approved by the Chief of Police.

Chapter 5.12: Indecent Conduct

Section

5.12.02

Definitions

5.12.04

Unlawful Activities

5.12.02 Definitions

As used in this section, the following definitions shall apply:

1. “Obscene”- To the average person applying contemporary community standards, taken as a whole, that the predominant appeal of the matter appeals to the prurient interests and (i) depicts or describes patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated; or (ii) depicts or describes patently offensive representations or descriptions of masturbation, excretory functions, or lude exhibits of the genitals; and which, taken as a whole, lacks serious literary, artistic, political or scientific value.
 2. “Prurient interest”- Shameful or morbid interest in nudity, sex or excretion which goes substantially beyond customary limits of candor in description or representation.
 3. “Material”- Any book, magazine, newspaper or other printed or written material or any picture, drawing, photograph, motion picture or other pictorial representation or any statue or other figure, or any recording, transcription or mechanical, chemical, or electrical reproduction or any other articles, equipment or machines.
 4. “Dissemination”- To transfer possession of, with or without consideration.
 5. “Knowingly”- Being aware of the character and content of the material.
 6. “Promote”- To cause, permit, procure, counsel or assist.
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5.12.04 Unlawful Activities

It shall be unlawful for any person within the City of Clark to:

1. Knowingly disseminate, distribute or make available to the public any obscene materials; or
2. Knowingly engage or participate in any obscene performance made available to the public; or

3. Knowingly engage in commerce for commercial gain with materials depicting and describing explicit sexual conduct, nudity, or excretion utilizing displays, circulars, advertisement and other public sales efforts that promote such commerce primarily on the basis of the prurient appeal; or
4. Appear in any public state in a state of dress intended to deceive others as to his or her sex, or make any indecent exposure of his or her person.
(SDCL 9-29-9)

Chapter 5.14: Offenses Against Public Officer

Section	
5.14.02	Resisting an Officer
5.14.04	Refusing to Assist an Officer
5.14.06	Refusing to Obey the Command of an Officer
5.14.08	Impersonating Officer
5.14.10	Failure to Appear in Court

5.14.02 Resisting an Officer

No person or persons shall rescue or take from the custody of any police officer, policeman or watchman, nor prevent the arrest of any person, nor resist, oppose, obstruct or impede any member of the police in the discharge of his duty in the City.

5.14.04 Refusing to Assist an Officer

No person shall refuse to assist any policeman in making any arrest when lawfully required by the chief of police or any policeman.

5.14.06 Refusing to Obey the Command of an Officer

No person shall refuse to obey the command and direction of any police officer or policeman who may be doing duty for the purpose of preserving order and enforcing the ordinances of the City.

5.14.08 Impersonating Officer

It shall be unlawful for any person not duly authorized to exercise the duties conferred by law upon policeman of this City, to wear a policeman's badge or represent himself as being a policeman or peace officer, or attempt to exercise the duties of a policeman or peace officer in the City.

5.14.10 Failure to Appear in Court

Any person arrested for a violation of a municipal ordinance and who is released from custody after giving a written promise to appear in court at a time and place specified, and who violates his written promise to appear, shall be punished, upon conviction thereof regardless of the disposition of the charge on which he was originally arrested.

Chapter 5.16: Offenses Against Public Welfare

5.16.02	Disorderly Conduct
5.16.04	False report of a Crime
5.16.06	False report of a Fire
5.16.99	Penalty

5.16.02 Disorderly Conduct

A person shall be guilty of disorderly conduct if, with the purpose of causing public danger, alarm, disorder, nuisance, or if his conduct is likely to cause public danger, alarm, disorder or nuisance, he willfully does any of the following acts in a public place:

1. Commits an act in a violent and tumultuous manner toward another whereby that other is placed in danger of life, limb or health;
2. Commits an act in a violent and tumultuous manner toward another whereby the property of any person is placed in danger of being destroyed or damaged;
3. Causes, provokes or engages in any fight, brawl or riotous conduct so as to endanger the life, limb, health or property of another, except in boxing exhibitions duly authorized and licensed under law;
4. Interferes with another's pursuit of a lawful occupation by acts of violence;
5. Obstructs, either singly or together with other persons, the flow of vehicular or pedestrian traffic and refuses to clear such public way or place when ordered to do so by the City Police or other lawful authority known to be such;
6. Is in a public place under the influence of an intoxicating liquor or drug in such a condition as to be unable to exercise care for his own safety of others;
7. Resists or obstructs the performance of duties by the City Police or any other authorized official to the City when known to be such an official;
8. Incites, attempts to incite, or is involved in attempting to incite a riot;
9. Addresses abusive language or threats to any member of the City Police Department, any other authorized official of the City who is engaged in the lawful performance of his duties, or any other person when such words have direct tendency to cause acts of violence. Words merely causing displeasure, annoyance or resentment are not prohibited.
10. Damages, befouls or disturbs public property or the property of another so as to

create a hazardous, unhealthy or physically offensive condition;

11. Makes or causes to be made any loud, boisterous and unreasonable noise or disturbance to the annoyance of any other persons nearby, or near to any public highway, road, street, lane, alley, park, square, or common, whereby the public peace is broken or disturbed, or traveling public annoyed;
12. Fails to obey a lawful order to disburse by a police officer, when known to be such an officer, where one or more persons are committing acts of disorderly conduct in the immediate vicinity, and the public health and safety is eminently threatened;
13. Throws a stone, snowball or any other missile upon or at any vehicle, building, tree or other public or private property or upon or at any person in any public or private way or place or enclosed or unenclosed ground;

As used above, the following definitions shall apply:

1. “Public place”- Any place to which the general public has access in the right resort for business, entertainment, or other lawful purpose, but does not necessarily mean a place devoted solely to the use of the public. It shall also include the front or immediate area of any store, shop, restaurant, tavern or other place of business and also public grounds, areas or parks.
2. “Riot”- A public disturbance involving (i) an act or acts of violence by one or more persons part of an assemblage of three or more persons, which act or acts shall constitute a clear and present danger of, or shall result in, damage or injury to the property of another person or to the person or any other individual, or, (ii) a threat or threats of the commission of an act or acts of violence by one or more persons part of an assemblage of three or more persons having, individually or collectively, the ability of immediate execution of such threat or threats, where the performance of the threatened act of acts of violence would constitute a clear and present danger of, or would result in, damage or injury to the property of any other person or to the person of any other individual.
3. “Inciting riots”- Shall mean, but is not limited to, urging or instigating other persons to riot, but shall not be deemed to mean the mere oral or written advocacy of ideas or expression of belief, not involving advocacy of any act or acts of violence or assertion of the rightness, or the right to commit, any such act or acts.

This section shall not be construed to suppress the right to lawful assembly, picketing, public speaking, or lawful means of expressing public opinion not in contravention with other laws.

5.16.04 False Report of a Crime

No person in the City shall make to, or file with, the Fire Department of the City any

false, misleading, or unfounded statement or report concerning the existence of a fire within the jurisdiction of the Fire Department.

5.16.99 Penalty

Any person who shall violate any of the provisions of this Chapter shall upon conviction be punished by a fine in an amount not to exceed One Hundred Dollars (\$100) or by imprisonment for not to exceed thirty days, or by both such fine and imprisonment.

Chapter 5.18: Offenses Against Property

Section	
5.18.02	Malicious Mischief
5.18.04	Obstructing Streets and Walks by Play
5.18.06	Statutory Nuisances
5.18.08	Throwing Waste Paper on Streets
5.18.10	Signs
5.18.12	Injury or Removal of Public or Private Property
5.18.14	Tampering in General
5.18.16	Tampering with Service Connections

5.18.02 Malicious Mischief

Any person who shall maliciously injure, mar, deface, remove or destroy any real or personal property not his own, shall upon conviction thereof, be deemed guilty of a misdemeanor.

5.18.04 Obstructing Streets and Walks by Play

No person shall, in any public place within the City, fly a kite, play at ball or indulge in any sport in such a manner or at such a time as is liable to obstruct or interfere with the passage of vehicles or pedestrians.

5.18.06 Statutory Nuisances

It shall be unlawful for any person, company, or corporation to keep or maintain or permit upon his property, or property under his control or upon any public property within the City any nuisance defined as such by statute or at common law.

5.18.08 Throwing Waste Paper on Streets

It shall be unlawful for any person or persons to throw or deposit paper, ashes or rubbish on the streets, alleys or public grounds within the corporate limits of the City.

5.18.10 Signs

No obstruction shall be erected upon any sidewalk or within the areas of any street or public place in the City. It shall be unlawful to paint, draw or affix any posters, signs or advertising matter or devices upon or to any of the sidewalks, boulevards, pavements,

telephone, telegraph, and electric poles or lamp posts, or upon any other public property or public building or upon any private property without the consent of the property owner or his agent except that in the event consent is given by the property owner or his agent. Such items shall not obstruct or interfere with vision or motorists or other persons using the highway and shall not be permitted to constitute a menace to public safety.

5.18.12 Injury or Removal of Public or Private Property

No person shall willfully, maliciously, wantonly, negligently, or otherwise injure, deface, destroy, or remove real property or improvements thereto or movable or personal property belonging to the City or to any person in the City.

5.18.14 Tampering in General

No person in the City shall tamper with, injure, deface, destroy or remove any sign, notice, marker, fire alarm box, fire plug or hydrant, typographical survey marker or monument, or any other personal property erected or placed by the City.

5.18.16 Tampering with Service Connections

It shall be unlawful for any person to connect, disconnect, or otherwise tamper with any service connection of any franchised cable television company or Broadband Communications Service Company without the express prior approval from a designated agent of said Cable Television or Broadband Communications Service Company.
(SDCL 22-34-28)

Chapter 5.20: Miscellaneous Unlawful Conduct

Section	
5.20.02	Theft
5.20.04	Assault and Battery
5.20.06	Discarded Refrigerators

5.20.02 Theft

Any person who takes, or exercises control over property of another with intent to deprive him of it, is guilty of theft.

5.20.04 Assault and Battery

It shall be unlawful for anyone to commit an assault or an assault and battery within the City limits.

Assault and assault and battery shall be determined, defined and limited as provided in the laws of the state of South Dakota.

5.20.06 Discarded Refrigerators

Any unused refrigerator, ice box or refrigerating unit, without the doors thereof removed, whether upon any public or private property in the City, is declared to be a nuisance, and no person or persons, firm or corporation shall create, commit, maintain or permit to be created, committed, or maintained any such nuisance.

Chapter 5.99: Penalty

Section

5.99.02

Penalty

5.99.02 Penalty

Any person violating any of the provisions of this Title shall, upon conviction thereof, be punished by a fine not to exceed One Hundred Dollars (\$100) or by imprisonment for not more than thirty (30) days, or by both such fine and imprisonment.

Title 6 – Streets and Public Ways

Chapter

- 6.01 Names of Streets and Avenues (Ord. 534)
 - 6.02 General Provisions
 - 6.04 Sidewalks, Curbs and Gutters
 - 6.06 Moving Buildings
 - 6.08 Trees on or Near Public Property (Ord. 524)
 - 6.10 Sidewalk Repair and Maintenance
 - 6.99 Punishment
-

Chapter 6: Names of Streets and Avenues

Section	
6.01.01	Plats Parts of Ordinance
6.01.02	Official Map
6.01.03	Names of the Streets and Avenues
6.01.04	Building Numbering

6.01.01 Plats Part of Ordinance

Those plats indicating the names of street and avenues of the City of Clark, South Dakota, now on file or filed on a future date in the office of the Register of Deeds of Clark County, South Dakota, are hereby incorporated as a part of this ordinance.

6.01.02 Official Map

The official map of the City of Clark shall be those maintained in the office of the Register of Deeds of Clark County, South Dakota.

6.01.03 Names of the Streets and Avenues

The official names of the streets and avenues in the City of Clark shall be those as shown on the official map maintained in the office of the Register of Deeds of Clark County, South Dakota.

6.01.04 Building Numbering

- (a) Addresses for dwelling units and places of business on all public and private streets shall be assigned by the Finance Officer in accordance with the procedures adopted by the City of Clark.
- (b) Within thirty (30) days of notification of the address by the Finance Officer, the owner, occupant, person, firm, corporation or business in charge of any house or building to which an address has been assigned must place or construct such numbers as to be easily visible and distinguishable from the street or avenue on which the property is located. Any other numbers must be removed to avoid confusion. These numbers shall not be less than three (3) inches in height and of a contrasting color to the background. The numbers shall be read horizontally from left to right or vertically from top to bottom. The numbers in plain, block, vertical (not slanted) font are preferred. The property owner, occupant, or person in charge of the structure shall pay for all costs and installation of the numbers.

- (c) In case a principle building is occupied by more than one business or family dwelling unit, each separate unit must display a separate unit number.
- (d) If the building or dwelling is situated in such a way that the address cannot be easily seen from the roadway in front of said structure, then a sign or address post must be used in front of the structure or at the entrance of the primary driveway and place in such a way that it can easily be seen from the roadway.
- (e) New structures must comply with this ordinance within 30 days of occupancy.
- (f) In the event that the owner of occupant or person in charge of any dwelling or building refuses, fails, or neglects to comply with the terms of this ordinance by placing the number assigned or replacing the number if necessary, a notice shall be sent to the property owner by first class or certified mail or by personal service giving ten days after date of the notice to comply. Failure to comply with this notice will result in a fine not to exceed \$50 for each offense and each day in violation constitutes a separate offense.

Chapter 6.02: General Provisions

Section	
6.02.02	Parking of Vehicles Prohibited
6.02.04	Vehicle May Be Removed; Cost, Etc.
6.02.06	No Burning on Surfaced Streets
6.02.08	No Petroleum Products on Paving
6.02.10	Poles in Streets
6.02.12	Duties of Superintendent of Streets
6.02.14	Installation of Streets and Related Items

6.02.02 Parking of Vehicles Prohibited

- (a) No motor vehicle or other vehicle of any kind shall be parked or remain upon any street or avenue when signs have been posted banning parking during a specified time or for a specified purpose (for example: snow emergency, no parking 2-5 A.M., street cleaning, no parking Saturday morning). The Mayor shall have the authority to authorize such signing.
- (b) No motor vehicle or other vehicle of any kind shall be parked and remain upon any street, avenue, parking lot or public way when the Police Department or Street Department has placed barricades thereon for maintenance, cleaning, plowing or any other legitimate purpose. Any owner or person in charge, of a vehicle parked prior to placement of barricade shall remove it upon request.
- (c) No motor vehicle or other vehicle shall be parked or remain upon any street or avenue right of way or boulevard in any one location within the limits of this City for a period of time exceeding 24 consecutive hours.
- (d) No semi-tractor or semi-trailer shall be parked upon any street, boulevard, alley or public place in a residential district, except for the purpose of loading and unloading merchandise, and in such cases only for a reasonable length of time to load and unload.
- (e) No bus, which for purposes of this ordinance shall be defined as a motor vehicle for carrying passengers with a seating capacity of at least ten (10) persons, not including the driver, and including but not limited to a school bus:
 - i) Shall receive or discharge passengers on the streets or alleys within the corporate limits of the city except at such locations as shall from time to time be designated by the City Council; or
 - ii) Shall be parked on the sidewalk of any street, or be parked at or near any crosswalk or intersection of streets so as to obstruct or hinder the traffic

along such crosswalk or intersection or so as to obstruct or hinder the view of vehicles approaching such crosswalk or intersection.

6.02.04 Vehicle May Be Removed; Cost, Etc.

- (a) Any motor vehicle or other vehicle which is in any such street or avenue contrary to the provisions of Section 6.0202 hereof may be removed from such street or avenue by any member of the Street Department of said City, or any person requested by such member of said Street Department to remove said motor vehicle or other vehicle, and the expense of so removing such motor vehicle or other vehicle shall be taxed and collected as under Section 7.0810. Neither said City nor any other person shall have any liability for any damage which may be done to any motor vehicle or other vehicle so moved, as long as reasonable care is used in the moving of such motor vehicle.
 - (b) The Police Department may remove or cause to be removed any vehicle found in violation of the provisions of 6.0202, sub-section (d). Any vehicle stored on City property under this Ordinance shall become liable for such actual, reasonable storage charges incurred on the City. Such vehicle may be hauled from the place where it is found to a place of storage. The cost of such removal and storage shall become a possessory lien under state law, and the City may foreclose such lien and sell the vehicle for payment of all charges, as provided for by state law. The Police Department may issue a tag for violation in lieu of removal of the said vehicle and such offense shall constitute a misdemeanor under these Ordinances.
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6.02.06 No Burning on Surfaced Streets

It shall be unlawful for any person to burn any trash, lumber, leaves, grass, straw or other material of any kind upon, or to light or have a fire of any kind upon, or allow any gasoline upon, or to place any dirt, trash or any other kind of material upon any street, avenue or alley in said City upon which a wearing surface of any kind has been constructed.

6.02.08 No Petroleum Products on Paving

It shall be unlawful for any person to willfully deposit, leave or allow the depositing or dripping of any gasoline, naphtha or like products of similar properties, upon any asphaltic pavement or asphaltic concrete pavement or upon the pavement in or on any street paved therewith, or which may hereafter be paved with such asphalt or asphaltic concrete.

6.02.10 Poles in Street

No person shall erect, place or set or cause the same to be done, any sign post, telephone or telegraph pole or post or erect or suspend any telephone or telegraph or other wire or rope for any purpose upon, along, over or across any street, alley, highway, sidewalk or public grounds without first having obtained the consent or authority of the City Council so to do.

6.02.12 Duties of Superintendent of Streets

It shall be the duty of the Superintendent of Streets, under direction of the City Council, to have the charge and control of all sidewalks, streets, highways, bridges and public grounds of the City. He shall inspect, maintain, watch over and keep the same in good repair for the City, and cause to be removed there from all impediments and obstructions, guard against all openings or pitfalls, or other dangerous places in the streets or alley of said City, and to see that the same are in suitable condition for the use of the public, and shall employ from time to time such help and assistance as is necessary to so care for and protect such streets, alleys and public grounds and shall from time to time at the request of the Council report to them on these improvements.

6.02.14 Installation of Streets and Related Items

Any developer of residential, commercial or industrial property shall be responsible for the preparation and installation of any required streets, alleys, sidewalks, curbs and gutters. Any construction or development must meet standards established by the City Council. Any such standards shall be subject to modification by the full Council.

The developer may install such improvements, or at the discretion of the City, the Street Department may do some or all of the work at rates to be established by the City and agreed to between the City and the developer.

6.02.16 Digging-Application Required

No person shall dig into, on or through City streets, alleys, curbs, gutters or sidewalks without first having obtained permission from the Superintendent of Streets. To obtain such permission, application must be made to the City Finance Officer, which application shall be accompanied by a fee of one hundred fifty dollars (\$150.00) and shall include the following information:

1. The purpose for the digging
2. The area to be dug; and,
3. The name and address of the person doing the digging

It shall be the responsibility of the applicant to repair all of the affected City property to

its original condition and to the satisfaction of the Superintendent of Streets.

The City of Clark shall reserve the right to require that any person digging into City property as above referenced maintain a policy of liability insurance satisfactory to the City and exhibit proof of such liability insurance to the City Finance Officer.

Chapter 6.04: Sidewalks, Curbs and Gutters

Section

6.04.02	Merchandise on Sidewalk
6.04.04	Rubbish on Sidewalk
6.04.06	Snow and Ice - Nuisance
6.04.08	Same – Owner Must Remove
6.04.10	Same – Cost of Removal
6.04.12	Disposal of Snow
6.04.14	Replacement of Sidewalks
6.04.16	Barrier-Free Construction

6.04.02 Merchandise on Sidewalk

No person shall place any goods or merchandise for sale or exhibition upon any sidewalk, or suspend any goods over the same for show, or deposit thereon, or cause or suffer to be deposited thereon any cask, barrel, case, box or any other package.

6.04.04 Rubbish on Sidewalk

It shall be unlawful for any person or the owner or occupant of any lot or lots or private grounds abutting on any public sidewalk, to allow any mud, rubbish, debris or obstruction to be or remain on such sidewalk or along such abutting sidewalk for more than twelve (12) hours.

6.04.06 Snow and Ice – Nuisance

Snow and ice permitted to gather and remain upon the sidewalks of this City is dangerous to the safety of its citizens and others using said sidewalks and is hereby declared a public nuisance.

6.04.08 Same – Owner Must Remove

The owner or occupant of any building or ground within this City, fronting upon or adjoining any street where a sidewalk exists in front of or adjoining said premises so owned or occupied, and the owner of any unoccupied building or lot fronting or adjoining any sidewalk as aforesaid, shall clear the sidewalk in front of, or adjoining, such building and ground and unoccupied buildings and lots as the case may be of snow or ice to the width of the sidewalk within twenty-four (24) hours after the same shall have formed.

6.04.10 Same – Cost of Removal, Charged

If the owner or occupant of any building or lot as herein mentioned fails or neglects to remove said snow or ice from such sidewalk for a period of twenty-four (24) hours after the same shall have formed, then the Superintendent of Streets or any other officer of this City may proceed and remove the same and the City shall pay the expenses of removing such snow and ice and said amount so paid shall be reported to the City Finance Officer and be charged against the abutting property from which the snow or ice was removed or it may be collected by suit against the owner or occupant of said lot or building.

6.04.12 Disposal of Snow

It shall be the duty of the property owner, tenant, or person in possession of any public or private driveway, parking lot or parking area to dispose of accumulated snow upon such property in such manner that any snow when removed shall not be deposited upon any sidewalk within or upon any public street or alley, or in a manner that will obstruct or interfere with the passage or vision of vehicle or pedestrian traffic.

It shall be the duty of the property owner, tenant, or person in possession of any property abutting on any sidewalk to dispose of accumulated snow upon such sidewalk in such a manner that any snow when removed shall not be deposited within or upon any public street or alley, after such public street or alley has been cleared of snow by the grading of such snow away from the curb or the picking up and carrying away of such snow by the City.

6.04.14 Replacement of Sidewalks

Within thirty (30) days after existing sidewalks are removed, replacement of sidewalks shall be required unless approval is given in writing by the City Council.

6.04.16 Barrier-Free Construction

Whenever any person, firm or corporation makes new installations of sidewalks, curbs or gutters, in either business or residential areas, it shall be required that he install ramps at crosswalks, so as to make the transition from street to sidewalk easily negotiable for handicapped person in wheelchairs and for blind persons. All such ramps shall be constructed or installed in accordance with design specifications according to the most current American National Standards Specifications published by the American National Standards Institute. (SDCL 9-46-1.1, SDCL 9-46-1.2)

Chapter 6.06: Moving Buildings

Section

6.06.08 Standing Buildings

6.06.10 Permission of Property Owners

6.06.12 Moving Dwelling to Outside City Limits – Non Refundable Fee

6.06.08 Standing Buildings

No building or part of a building being moved, shall be allowed to stand still in any public street or any public ground for more than twenty-four (24) consecutive hours.

6.06.10 Permission of Property Owners

No moving license granted by the City shall authorize the holder thereof to break, injure or move any telephone or electric light or power wire or pole, or to cut, trim or otherwise interfere with any trees or to damage or in any manner interfere with any property without the written permission of the owner or owners thereof. (SDCL 9-34-1)

6.06.12 Moving Dwelling to Outside City Limits – Non Refundable Fee

In addition to complying with the other requirements of this chapter, any owner or owners of an affixed building that is being used as a dwelling home by persons, or has been so used during the preceding ten (10) years, shall pay to the city a one-time, non-refundable fee of 10% of the assessed valuation as recorded in the Office of Director of Equalization if such building is to be moved to a location outside the City Limits of the City of Clark, South Dakota.

All taxes will be paid up to the date of removal of the house to be moved.

This fee shall not exceed the sum of \$5,000.00. The aforementioned fee may, at the discretion of the City Council, be refunded to said owner when replacement within one year retains or exceed the original assessed base.

Chapter 6.08: Trees on or Near Public Property

Section	
6.08.02	Supervision
6.08.04	Planting
6.08.06	Boulevard Trees
6.08.08	Distances
6.08.10	Responsibility of Private Sector
6.08.12	Injury to Public Trees

6.08.02 Supervision

The Clark City Council shall have exclusive jurisdiction and supervision over all trees, shrubs, plants and other vegetation in all public areas in the City, including boulevards.

6.08.04 Planting

No person shall plant any tree on any public ground or boulevard that does not comply with the guidelines outlined in this code. The City shall have the power to approve or disapprove such planting, designate the species of tree to be planted in a designated public area, designate the location and the method of planting. Once planted, the City shall continue to have jurisdiction over the tree and area planted.

6.08.06 Boulevard Trees

The care, maintenance, pruning and removal of trees planted on any City boulevard, after the planting thereof has been planted according to the guidelines set herein, shall continue to be the responsibility of the private property owner or his successor who has planted the tree. While the city has jurisdiction over boulevard trees, the cost of planting, care, pruning, removal and the like is the responsibility of the private property owner.

6.08.08 Distances

Trees planted on or near public ground and boulevards shall comply with the following distance regulations:

- A. No tree shall be planted where the distance between any two man-made improvements, such as curb and sidewalk, is less than four (4) feet.
- B. No tree shall be planted or permitted to grow so close to any curb, sidewalk or public structure or improvement, such that it interferes with vehicular traffic or parking, pedestrian movement along the walkway or such that it touches or

crowds the public structure or improvement.

- C. No tree shall be planted within fifty (50) feet of the center of any intersection.
 - D. No tree shall be planted within ten (10) feet of any fireplug or water hydrant.
 - E. No tree shall be planted so that its natural growth will eventually interfere with any above ground utility wire.
 - F. No tree shall be planted within five (5) feet of any underground water, sewer or other utility line.
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6.08.10 Responsibility of Private Sector

Every private owner of every tree adjacent to or in close proximity with any street light, electric line, sewer or water pipe or other utility line or pipe, shall keep said tree in proper shape and condition, and shall when necessary, prune or remove the same, at his expense, in property manner, so that said tree does not interfere with or hinder normal usage of said street, sidewalk, area, utility, etc., or block any light from any such street light.

Said owner shall also remove all dead, diseased, broken, decaying or otherwise dangerous limbs and branches which pose a potential health hazard or danger to the public. Shall the private owner not comply with this Section, the City shall have the right to prune or remove any tree in violation for this Section in the manner and with the same effect as described in Chapter 3.10 of this Title, with the cost thereof being the responsibility of the private owner.

6.08.12 Injury to Public Trees

It shall be unlawful for any person to remove, transplant, cut, trim, break, mark, cover, or in any manner injure or cause disease to any tree on any public area or boulevard, or otherwise make any attachments to any public tree by way of wire, string, nails, rope or the like.

Chapter 6.10: Sidewalk Repair and Maintenance

Section	
6.10.02	Supervision of Sidewalk Construction
6.10.04	Specifications
6.10.06	Repair of Sidewalks
6.10.08	Special Assessments
6.10.10	Notice to Adjoining Property Owners to Construct or Repair Sidewalk
6.10.12	Municipal Construction or Repair on Failure by Adjoining Owner
6.10.14	Inspection
6.10.16	Costs
6.10.99	Penalty

6.10.02 Supervision of Sidewalk Construction

The building and construction of all sidewalks upon or along any streets shall be under the direct supervision of the Streets Superintendent, who shall see that said sidewalk conforms to the specifications referred to in this chapter.

6.10.04 Specifications

The construction of all sidewalks, whether by direct contract with the city or by contracts with the abutting property owner, shall be strictly in accordance with the specifications for sidewalks adopted by the commission and on file in the Finance Office. The Streets Superintendent has full power to condemn work and materials not in accordance with the requirements of such specifications. The sidewalk must be constructed with a gravel base, poured cement of not less than 4 inches thick and not less than 4 feet wide, level, and match up with any existing sidewalks.

6.10.06 Repair of Sidewalks

The Streets Superintendent has full power to condemn existing sidewalks which need repairs and to serve the abutting owner of the property written notice requiring such repairs to be made within thirty days or such longer time as the Streets Superintendents shall specify in the notice.

6.10.08 Special Assessments

Upon failure of the property owner to make repairs as required in Section 6.1006, the city council shall cause the repairs to be made in accordance with SDCL 9-46.

6.10.10 Notice to Adjoining Property Owners to Construct or Repair Sidewalk

Whenever the city shall deem it necessary to construct, rebuild, or repair any sidewalk, it shall notify all owners of lots adjoining such sidewalk to construct, rebuild or repair the same at their own expense. Such notice shall be in writing and either be served personally by certified mail return receipt required on such owner of record or by publication once each week for two consecutive weeks in the legal newspaper. The notice shall set forth the character of the work and the time within which it is to be completed. Such notice may be general as to the owners but must be specific as to the description of such lots.

6.10.12 Municipal Construction or Repair on Failure by Adjoining Owner

If such sidewalk is not constructed, reconstructed or repaired in the manner and within the time specified pursuant to the notice required in Section 6.1012 of this chapter, the city by resolution may cause the same to be done by day labor or by job. If the amount of the contract is less than five hundred (\$500.00), it shall not be necessary to advertise for bids.

6.10.14 Inspection

It shall be a policy of the city of Clark that the Streets Superintendent or his or her designee shall canvas the city no later than June 30th of each year to determine whether or not any sidewalks or driveway sidewalks are in a hazardous or unsafe condition. If the Streets Superintendent or his or her designee determines that a sidewalk or driveway sidewalk is in a hazardous or unsafe condition, the Streets Superintendent shall send notice to the owner of the record pursuant to 6.1010 of this chapter of an unsafe or hazardous condition and the need for immediate repair or reconstruction of any sidewalk or driveway sidewalk.

Notwithstanding any other time frame provided herein, any time a sidewalk's condition is noted by the Streets Superintendent or his or her designee as presenting a safety hazard to pedestrians, the city shall notify the property owner that repairs are required and follow-up to ensure the repairs are completed.

6.10.16 Costs

Costs of constructing, reconstructing and/or repair of sidewalks shall be pursuant to SDCL 9-46-5 through 9-46-9 and acts amendatory thereto.

6.10.99 Penalty

Any person found guilty of violation of this chapter shall be punished under the general penal provisions of Chapter 6.99.02 of this code.

Chapter 6.99: Punishment

Section

6.99.02 Punishment

6.99.02 Punishment

Any person violating any of the provisions of this title shall be guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine not to exceed Two Hundred (\$200.00) Dollars, or imprisonment not to exceed thirty (30) days, or both such fine and imprisonment. Each day or portion thereof during which a violation of this title shall continue shall be deemed a separate offense.

Title 7 – Traffic Code

Chapter

- 7.02 Definition
 - 7.04 Administration and Enforcement
 - 7.06 Miscellaneous Driving Regulations
 - 7.08 Parking
 - 7.10 Speed
 - 7.11 Discharge of Noise by a Radio or Stereo from a Motor Vehicle
 - 7.12 School Police
 - 7.14 Traffic Control Devices
 - 7.16 Reserved
 - 7.18 Reserved
 - 7.20 Reserved
 - 7.22 Ambulances, Fire and Police Vehicles
 - 7.24 Motorcycles
 - 7.26 Bicycles
 - 7.28 Pedestrians
 - 7.30 Accidents; Duties and Reports
 - 7.32 Snowmobiles
 - 7.33 Golf Carts
 - 7.34 Three Wheel or All-Terrain Vehicles
 - 7.35 Parking on City Streets During Snow Removal
 - 7.36 Procedure on Arrest of Violator
 - 7.99 Punishment
-

Chapter 7.02: Definitions

Section	
7.02.02	Street
7.02.04	Curb
7.02.06	Vehicle
7.02.08	Motor Vehicle
7.02.10	Driver
7.02.12	Left-Hand and Right-Hand
7.02.14	Motor Truck
7.02.16	Owner
7.02.18	Operator
7.02.20	Intersection
7.02.22	Park or Parking
7.02.24	Resident District
7.02.26	Business District

7.02.02 Street

The term “street” shall apply to that part of the public highway intended for vehicles.

7.02.04 Curb

The term “curb” shall apply to the extreme edge of a street.

7.02.06 Vehicle

The term “vehicle” shall apply to any conveyance except motor vehicles, and where used in an inclusive sense includes motor vehicles.

7.02.08 Motor Vehicle

The term “motor vehicle” shall include all vehicles propelled by steam, electricity, gasoline or other mechanical power, except traction engines, road rollers, fire wagons and engines, police patrol wagons and ambulances.

7.02.10 Driver

The term “driver” shall apply to the rider, driver or leader of a horse and to the driver or operator of a vehicle or motor vehicle.

7.02.12 Left-Hand and Right-Hand

The term “left-hand” and “right-hand” side of the street means the left-hand or right-hand side of the vehicle as it goes forward.

7.02.14 Motor Truck

The term “motor truck” shall mean every motor vehicle designed and /or used for carrying, conveying or moving over the streets or highways of this city or state, any freight, property, article or thing, and which has a maximum load carrying capacity of one ton or more, but it shall not include any motor vehicle designed and /or used for carrying passengers, and commonly know as automobiles.

7.02.16 Owner

The term “owner” shall mean any person holding title to a vehicle or possession thereof under a contract or lease, or having the exclusive right to the use thereof for a greater period than ten days.

7.02.18 Operator

The term “operator” shall mean any person driving or operating a motor vehicle upon the highways or streets of this city.

7.02.20 Intersection

The term “intersection” shall mean the point or place where one street or highway joins another at an angle, whether or not it crosses same.

7.02.22 Park or Parking

The term “park” or “parking” shall mean the stopping of a vehicle on any part of a street in the City of Clark and allowing it to remain for any period of time in approximately the same place.

7.02.24 Residence District

The term “residence district” as hereinafter used refers to that part of the said city not hereinafter describes as business district.

7.02.26 Business District

The term “business district” as used in this Title shall mean that area defined as business and industrial district in Title 11 of this code.

Chapter 7.04: Administration and Enforcement

Section	
7.04.02	Traffic Under Control of Police
7.04.04	Closed Streets
7.04.06	Obedience to Traffic Ordinances, Signals and Markings
7.04.08	Construction and Maintenance of Crossing Signal Devices

7.04.02 Traffic Under Control of Police

Whenever any police officer takes charge of the traffic on any street or thoroughfare, he shall have full and complete control of all traffic on said street or thoroughfare irrespective of the traffic ordinances, and shall direct all traffic during the time he deems it necessary to control the same.

7.04.04 Closed Streets

Whenever the Chief of Police shall deem it necessary or advisable he may close from traffic any street or any part thereof, and such street shall remain closed until again opened to traffic by said Chief of Police.

7.04.06 Obedience to Traffic Ordinances, Signals and Markings

No person shall violate any rule, regulation, traffic direction, sign or marking adopted, prescribed or established in accordance with the provisions of this title, unless otherwise directed by a police officer.

7.04.08 Construction and Maintenance of Crossing Signal Devices

No one except the City shall construct, operate or maintain upon or in any of the streets any crossing signal or device of any kind or character to regulate or direct motor vehicle traffic upon the streets except upon authority given by the City by resolution. All such signals or devices shall be so constructed that the base or standard supporting such signal or device shall be at the right side of such street and to one side of the paved, graveled or graded portion thereof, so as not to interfere in any manner with any traffic upon such highway.

Chapter 7.06: Miscellaneous Driving Regulations

Section	
7.06.02	Overtaking
7.06.04	Turning Corners
7.06.06	Driving on Right-Hand Side of Street
7.06.08	U-Turns
7.06.10	Right-of-Way at Intersections and Exceptions
7.06.12	Backing
7.06.14	Shall Not Leave Engine Running
7.06.16	Slow Driving
7.06.18	Brakes and Signaling Device
7.06.20	When Vehicles Must be Lighted
7.06.22	Headlamps of Motor Vehicles
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7.06.26	Rear Lamps
7.06.28	Lights on Other Vehicles
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7.06.36	Driving Cattle
7.06.38	Hitching Horses
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7.06.58	Prohibiting Certain Vehicles and Machines on Streets
7.06.60	Weight of Vehicle and Load
7.06.61	Prohibit Use of Dynamic Braking Devices

7.06.02 Overtaking

Any vehicle or motor vehicle overtaking another shall pass to the left-hand and shall not pull over to the right until entirely clear of the overtaken vehicle or motor vehicle, but as soon as entirely clear, the overtaking vehicle or motor vehicle shall pull over as close to the right-hand curb as practicable.

7.06.04 Turning Corners

- (a) A vehicle or motor vehicle turning into a street to the right shall turn the corner as near the right-hand curb as practicable. Upon such right turn the operator of such vehicle shall yield the right-of-way to all pedestrians crossing at such intersection, to all passing traffic and to all vehicles backing from the curb in such intersecting lane.
 - (b) A vehicle or a motor vehicle intending to turn to the left on any street, shall approach such intersection in the lane for traffic to the right of and nearest to the center line of the street, and in turning shall pass beyond the center of the intersection, passing as closely as practicable to the right thereof before turning such vehicle to the left, except at such intersections where it is clearly indicated by buttons, markers or other direction signs installed within such intersection that a different left-turn is to be made.
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7.06.06 Driving on Right-Hand Side of Street

The driver or operator of a vehicle or motor vehicle shall drive the same upon the right half of the street, and shall drive a slow moving vehicle as closely as possible to the right-hand edge or curb of such street, unless it is impractical to travel on such side of the street, and except when overtaking and passing another vehicle, as provided in Section 7.0602 hereof, and while making a left turn as provided in paragraph (b) of Section 7.0604 hereof.

7.06.08 U-Turns

- (a) Vehicles and motor vehicles making a “U” turn at any intersection in this city shall grant the right-of-way to all vehicles and motor vehicles approaching and entering such intersection for any purpose other than making of a “U” turn; provided, however, that no “U” turn shall be permitted at any intersection where traffic is regulated by “Stop and Go” signs.
- (b) No driver of a vehicle shall cross over to park on the left side of any street or avenue in the business district except such street as are designated one-way streets.
- (c) No driver of a vehicle shall back across a street in the business district to reverse direction upon leaving a parking place.
- (d) No driver shall make a “U” turn between intersections in any district.

7.06.10 Right-of-Way at Intersections and Exceptions

(a) When two vehicles approach or enter an intersection at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right, except as otherwise provided herein.

1. The driver of any vehicle traveling at an unlawful rate of speed shall forfeit any right-of-way which he might otherwise have hereunder.
2. The driver of a vehicle approaching, but not having entered an intersection, shall yield the right-of-way to a vehicle within such intersection and turning to the left across line of travel of such first-mentioned vehicle or motor vehicle, providing the driver of the vehicle turning left has given a plainly visible signal of intention to turn as required by Section 7.0644 hereof.

(b) Exceptions to right-of-way rule:

1. The right-of-way rule shall not apply to those intersections which are regulated by mechanical signals, signs or devices regulating traffic at such intersection.
2. The driver of a vehicle entering a public street from an alley, private driveway or private road, shall yield the right-of-way to all vehicles approaching on such public street.
3. A driver of a vehicle upon a street shall yield the right-of-way to police and fire department vehicles and ambulances, when the latter are operated upon official business and the drivers thereof sound audible signal by bell, siren or exhaust whistle. These provisions shall not operate to relieve the driver of a police, fire department vehicle or ambulance from the duty to drive with due regard to the safety of all persons using the street, nor shall it protect the driver of any such vehicle from the consequence of an arbitrary exercise of such right-of-way.

7.06.12 Backing

The driver of any vehicle or motor vehicle backing from the curb line shall do so without unduly interfering with the passing traffic, provided as follows: such driver shall not back into the lane of immediate passing or oncoming traffic. When the lane of traffic is clear he shall have the right to back his vehicle into the usual traffic lane, and when his vehicle has so entered the traffic lane he shall have the right-of-way over oncoming traffic to continue into and along such traffic lane and proceed forward with all due care and driving prudence.

7.06.14 Shall Not Leave Engine Running

No driver or owner of a motor vehicle shall permit the engine of said vehicle to run idle on any street, avenue or alley of this city unless said care is in the possession of and being operated by a person competent to handle said vehicle; except that delivery men and truck drivers may permit their engines to run idle for a period of time not longer than five minutes while they are making a delivery, loading or unloading, provided the brake on said vehicle is properly set.

7.06.16 Slow Driving

No person shall drive any vehicle or motor vehicle at an unnecessarily slow rate or speed so as to hinder or retard the traffic.

7.06.18 Brakes and Signaling Device

Every motor vehicle shall be provided with adequate brakes in good order and sufficient to control such motor vehicle at all times when same is in use, and suitable and adequate bell or horn or other divide for signaling.

7.06.20 When Vehicles Must be Lighted

Every vehicle and motor vehicle shall, while being operated upon any street or alley within this city during the period from a half hour after sunset to a half hour before sunrise, and at any other time when there is not sufficient light to render clearly discernable any person on the street at a distance of two hundred feet ahead, be equipped with lighted front and rear lamps as in this Title respectively required for different classes of vehicles.

7.06.22 Headlamps of Motor Vehicles

Every motor vehicle other than a motorcycle, road roller, road machinery or farm tractor shall be equipped with at least two headlamps, with at least one on each side of the front of the motor vehicle, all such headlamps to comply with the requirements of South Dakota law relative thereto.

7.06.24 Headlamps of Motorcycles

Every motorcycle shall be equipped with at least one and not more than two headlamps.

7.06.26 Rear Lamps

Every motor vehicle, and every vehicle which is being drawn at the end of a train of vehicles, shall be equipped with a lighted rear lamp exhibiting a red light plainly visible from a distance of five hundred feet from the rear.

7.06.28 Lights on Other Vehicle

All vehicles not heretofore in this Title required to be equipped with specified lighted lamps, except bicycles, shall carry one or more lighted lamps or lanterns displaying a light visible under normal atmospheric conditions from a distance of at least five hundred feet to the front and to the rear of such vehicle.

7.06.30 Drivers

No person shall operate or drive a motor vehicle upon the streets, alleys or public grounds of this city unless such person has in his possession and name, a valid driver's license or driver's permit.

7.06.32 Careless Driving, Careless Driving with Drinking Involved, and Exhibition Driving

- (a) It shall be unlawful for any person to drive any vehicle or motor vehicle upon any public street, alley or public ground in this city carelessly and heedlessly in disregard of the rights or safety of others, and without due caution and circumspection at a speed or in a manner so as to endanger or be likely to endanger any person or property, and any such person so driving shall be guilty of careless driving.
- (b) It shall be unlawful for any person to drive any vehicle or motor vehicle upon any public street, alley or public ground in this city carelessly and heedlessly in disregard of the rights or safety of others, and without due caution and circumspection at a speed or in a manner so as to endanger or be likely to endanger any person or property, and any such person so driving who has been drinking shall be guilty of careless driving with drinking involved.
- (c) Any person who drives a vehicle within the limits of the City of Clark in such a manner that creates or causes unnecessary engine noise or tire squeal, skid or slide upon acceleration or stopping; or that simulated a temporary race; or that causes the vehicle to unnecessarily turn abruptly or sway shall be guilty of exhibition driving.

7.06.34 Mufflers – Smoke Eliminated

It shall be unlawful to operate a motor vehicle, motorcycle, snowmobile or other motorized vehicle unless the motor is provided with a muffler which shall at all times be kept closed so the exhaust is effectively muffled. It shall be unlawful to operate a motor vehicle, motorcycle, snowmobile or other motorized vehicle in such a manner as to emit unnecessary or excessive smoke from the motor of such vehicle. The mufflers on motorcycles shall contain baffles in working condition.

7.06.36 Driving Cattle

No person shall drive any cattle without special permission from the police.

7.06.38 Hitching Horse

No driver or other person shall leave any horse unhitched in any public street, alley or public ground, nor fasten not stop any horse in such way as to obstruct the free use by the public of any sidewalk or crosswalk, not hitch any horse or other animal to a fire hydrant or shade tree in said city.

7.06.40 Stopping on Cross-Walk

No horse, vehicle nor motor vehicle shall stand for more than one minute across any sidewalk at any crossing, or across that portion of a street or alley intended for the passage of pedestrians.

7.06.42 Funeral Processions, Duty to Stop

No owner or driver of any vehicle or motor vehicle shall drive through or otherwise interfere with any funeral procession in any of the streets of this city. It shall be the duty of every person driving any vehicle or motor vehicle in said city to stop when reaching a street or avenue on which a funeral procession has entirely passed by.

7.06.44 Turning Signals

The driver of any vehicle or motor vehicle about to turn either from a standstill or while in motion shall give timely and plainly visible signal to indicate the direction of the turn. Such signal shall be given either by means of the hand and arm in the manner provided by the South Dakota law, or by an approved mechanical or electrical signal device, except that when a vehicle or motor vehicle is so constructed or loaded as to prevent the hand and arm signal from being visible both to the front and rear, the signal shall be given by a device of a type which has been approved by the South Dakota Motor Vehicle

Department. Turning signals must be plainly visible to all approaching vehicles.

7.06.46 Parades and Processions

- (a) **Parades – Permit Required.** No parade or procession other than a funeral procession shall be held or participated in upon the streets except with the prior consent in writing of the Chief of Police, obtained upon application filed with the department setting forth the time of, route of, approximate number of persons and vehicles to participate in, and name and character of the group or organization sponsoring such parade or procession.

The consent of the Chief of Police to the holding of such parades or procession shall be given unless it reasonably appears that the holding of the same as set out in the application would unreasonably obstruct and impede traffic or would be likely to disturb the peace and quiet of the City.

- (b) **Driving Through Procession Prohibited.** No driver or any vehicle shall drive through or otherwise interfere with any authorized procession in any of the streets, and it shall be the duty of the driver of any vehicle to stop when reaching a street on which such a procession is passing and wait until the procession has entirely passed.
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7.06.48 Stealing Rides

No person shall ride, trespass upon, seize hold of or drag, slide or in any manner train behind any vehicle without the consent of the driver.

7.06.50 Trailing Sleds or Inner Tubes

It shall be unlawful for any person to cause to be attached or to permit any sled or inner tubes of any kind occupied by a person or persons to be trailed behind any vehicle or motor vehicle in the city limits of this City.

7.06.52 Driver Responsible

The driver or person in charge of a vehicle or motor vehicle or motor vehicle is deemed the responsible person.

7.06.54 Projecting Loads

Height, width and projecting load limits and restrictions shall be governed by state law.

7.06.56 Full Stop at Stop Sign

- (a) It shall be unlawful to fail to come to a complete stop at any stop sign or to proceed until the intersection is free of traffic.
 - (b) This section shall not apply to ambulances and fire and police department vehicles and apparatus while being operated in cases of emergency and using the proper warning signals of their approach.
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7.06.58 Prohibiting Certain Vehicles and Machines on Streets

It shall be unlawful for any person to run, move or propel or cause to be run, moved or propelled any threshing-engine or other traction engine, tractor, grain binder, mower or other machine or vehicle of any kind having mud-lugs, ice-spurs, spikes, chains or any other object or objects of any kind attached to its wheels (except ordinary chains upon the wheels of rubber-tired motor vehicles) over or upon any street, avenue or alley in said city upon which a wearing surface of any kind has been constructed unless sound and strong planks be placed and kept continuously under the wheels.

7.06.60 Weight of the Vehicle and Load

It shall be unlawful for any person to drive or operate any vehicle, motor vehicle, trailer or wagon upon or over any avenue, street or alley in this city when the weight of the vehicle and its load exceeds the posted limits on such street, avenue or alley. The Council shall have the authority to set temporary or permanent weight limits.

7.06.61 Prohibit Use of Dynamic Braking Devices

Operating any motor vehicle with a dynamic braking device engaged except for the aversion of imminent danger is prohibited. Dynamic braking device means a device used primarily on trucks for the conversion of the engine from an internal combustion engine to an air compressor for the purpose of braking without the use of wheel brakes. The police department shall have enforcement responsibility.

Chapter 7.08: Parking

Section

7.08.02	Where Prohibited
7.08.04	Vehicles Standing or Parking in Alleys
7.08.06	Temporary “No Parking” Areas for Street Cleaning and Snow Removal
7.08.08	Parallel and Diagonal Parking
7.08.10	Removing and Storing Illegally Parking Vehicles
7.08.12	Twenty-Four Hour Limit
7.08.14	Leaving Vehicle Unattended with Motor Running
7.08.16	No Parking Where “No Parking” Signs

7.08.02 Where Prohibited

The operator of a vehicle shall not stop, stand or park such vehicle in any of the following places except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control sign or signal.

- (a) Within an intersection
 - (b) On a crosswalk
 - (c) Outside the first line of cars parked next to the curb
 - (d) Within twenty-five feet of the intersection of curb lines
 - (e) Within fifteen feet of the driveway entrance to a fire station
 - (f) Within fifteen feet of a fire hydrant
 - (g) In front of a private driveway
 - (h) On a sidewalk
 - (i) Alongside or opposite any street elevation or obstruction when such stopping, standing or parking would obstruct traffic
 - (j) Upon private property without the prior consent of the person lawfully in possession of such premises
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7.08.04 Vehicle Standing or Parking in Alleys

No vehicle shall be left standing, attended or unattended, in public alleys for a period to exceed five minutes

Trucks shall not stand or park therein except for the purpose of receiving or delivering property and shall not so stand or park for a longer period of time than is necessary to load or unload. Such trucks, when loading or unloading, shall stand or park on the side of the alley.

7.08.06 Temporary “No Parking” Areas for Street Cleaning and Snow Removal

In order to clear any given area for the purpose of street cleaning, snow removal or street repair or marking, the department may designate such area and mark it with appropriate “no parking” signs and when so marked no vehicle shall be parked therein.

7.08.08 Parallel and Diagonal Parking

No vehicle shall be parked on any street unless such vehicle is parked parallel to the curb headed in the direction of traffic with curbside wheels of the vehicle within twelve inches of the curb, and no closer than four feet to any other vehicle front or rear, except where otherwise marked by the police department and except upon those streets which have been designated or marked for diagonal parking. Where streets are so marked, vehicles must park within the space thus designated.

7.08.10 Removing and Storing Illegally Parked Vehicles

When any vehicle is illegally parked or parked in a location which it creates a hazard, obstruction, nuisance or interference to or with the movement of traffic, snow removal operations, street sweeping or street maintenance, the police department may order such vehicle to be moved to a designated parking area or may have a tow company, of their choice, tow and store the vehicle at a location of the tow company’s choice, and under such circumstances the owner of the vehicle shall pay the tow company the actual cost of the removal of the vehicle to the parked or stored location plus the actual cost of storage.

7.08.12 Twenty-Four Hour Limit

No motor vehicle shall be parked on any street, avenue, alley or in a municipally owned public grounds for a longer period then twenty-four (24) hours at one location. Within the residential districts defined in Title of the Code, and above shall apply to the portion of the right-of-way between the curb line and property line.

7.08.14 Leaving Vehicle Unattended with Motor Running

No person shall leave a motor vehicle unattended while the engine is running, on any street in the City.

7.08.16 No Parking Where “No Parking” Signs

There shall be no parking in any space where the curb line is marked with red or yellow paint and/or labeled “No Parking”, or between “No Parking” signs. “No Parking” signs shall have the words “No Parking” painted thereon, with an arrow pointing from one sign

to the other which will designate the “No Parking” space between such signs; such “No Parking” signs to be installed by the police department upon authority from the Mayor.

Chapter 7.10: Speed

Section	
7.10.02	Speed
7.10.04	School Zones
7.10.06	Council Can Set Speeds

7.10.02 Speed

No person shall operate a vehicle or motor vehicle upon any street, alley or public place in this city at a speed greater, or in any manner than is reasonable and prudent under the conditions when existing. This provision shall apply in addition to any maximum speed limitation provided by Ordinance or police regulation.

7.10.04 School Zones

No person shall drive a motor vehicle at a speed in excess of fifteen (15) miles per hour while passing through a school zone, school crossing zone, or while traveling upon any street on or across which children are passing going to and from school during school days when such school children are present.

7.10.06 Council Can Set Speeds

The City Council shall have the authority to set temporary or permanent speed limits within the city limits of Clark. It shall be unlawful for any person to drive or operate any vehicle, motor vehicle, trailer or wagon upon or over any avenue, street or alley in this City in excess of such posted speed limits on such street, avenue or alley.

Chapter 7.11: Discharge of Noise by a Radio or Stereo from a Motor Vehicle

Section	
7.11.02	Excessive Noise
7.11.04	Variance Procedure
7.11.99	Penalty

7.11.02 Excessive Noise

No person shall operate a motor vehicle in a public place or on any public street, highway or alley from which said motor vehicle a stereo, tape player, compact disk player, radio or other sound amplification device can be heard a distance of fifty (50) feet or more.

The provisions of this section may be enforced following personal observation and/or hearing of any police officer or upon receipt of a complaint made of filed with the Police Department by the person disturbed by such noise.

7.11.04 Variance Procedure

The Mayor or his designee may grant a temporary variance from this ordinance to facilitate special events. Any police officer is specifically authorized to revoke the granted variance if the applicant shall fail to meet any of the limitations or conditions imposed when the variance was granted and/or other circumstances occurring subsequent to the granting of the variance require such revocation.

7.11.99 Penalty

Any person violating any of the provisions of this article shall be guilty of a municipal ordinance violation punishment by a fine not to exceed two hundred dollars (\$200.00) or by imprisonment not to exceed thirty days or by both such fine and imprisonment.

Chapter 7.12: School Police

Section

7.12.02 School Police (Crossing Guard)

7.12.02 School Police (Crossing Guard)

The Mayor of this city may appoint special policemen who shall be designated as school police and shall serve without compensation. The school police shall be appointed from the student bodies of public and private schools of this city; said school police shall be equipped with suitable insignia, to be furnished without expense to the city, and are hereby authorized to regulate traffic of all kinds upon the streets of this city between the hours of 8:00 o'clock A.M. and 4:30 o'clock P.M. on school days. The appointment of each of said school police shall designate the street upon which he shall have power to regulate traffic, and the length of time for which appointment shall be effective, and school police shall be subordinate to and shall obey all the orders of any regular police officer of this city; the drivers of all vehicles and motor vehicles shall comply with the directions or orders of said school police.

Chapter 7.14: Traffic Control Devices

Section

7.14.02	Authority to Install Traffic Control Devices
7.14.04	Obedience to Traffic Control Devices
7.14.06	Interference with Official Traffic Control Devices
7.14.08	Crosswalks, Safety Zones and Traffic Lanes

7.14.02 Authority to Install Traffic Control Devices

The City Police Department of this city shall place and maintain traffic control signs, signals and devices when and as required under the traffic ordinances of this city to make effective the provisions of said Ordinances, and may place and maintain such additional traffic control devices as the City Council may deem necessary to regulate traffic under the traffic ordinances of this city, or under the state law, or to guide or warn traffic.

7.14.04 Obedience to Traffic Control Devices

The driver of any vehicle shall obey the instruction of any official control device applicable thereto placed in accordance with the traffic ordinances of this city, unless otherwise directed by a police officer, subject to the exception granted the driver of an authorized emergency vehicle under the Ordinances of this city.

7.14.06 Interference with Official Traffic Control Devices

No person shall, without lawful authority, attempt to or in fact alter, deface, injure, knock down, remove or have in his or her possession any official traffic control device or any description shield or insignia thereon or any part thereof.

7.14.08 Crosswalks, Safety Zones and Traffic Lanes

- (a) The department may designate and maintain, by appropriate devices, marks or lines upon the surface of the roadway, crosswalks at intersections where in its opinion there is particular danger to pedestrians crossing the roadway and at such other places as it may deem necessary.
- (b) The department may establish safety zones of such kind and character and at such places as it may deem necessary for the protection of pedestrians.
- (c) The department may mark lanes for traffic on street pavements at such places as it may deem advisable, consistent with the traffic ordinances.

Chapter 7.22: Ambulance, Fire and Police Vehicles

Section	
7.22.02	Ambulances, Fire and Police Vehicles
7.22.04	Exemptions to Authorized Emergency Vehicles
7.22.06	Operation of Vehicles on Approach of Authorized Emergency Vehicle

7.22.02 Ambulances, Fire and Police Vehicles

Ambulances, fire and police department vehicles and apparatus shall have the right-of-way as provided in the Section 7.0610

7.22.04 Exemptions to Authorized Emergency Vehicles

The provisions of this Title regulating the movement, parking and standing of vehicles shall not apply to authorized emergency vehicles while the operator of such vehicle is operating the same in an emergency in the necessary performance of public duties. This exemption shall not, however, protect the driver of any such vehicle from the consequence of a reckless disregard of the safety of others.

7.22.06 Operations of Vehicles on Approach of Authorized Emergency Vehicle

Upon the approach of any authorized emergency vehicle giving audible signal by bell, siren or exhaust whistle, the operator of any other vehicle shall immediately drive the same to a position as near as possible and parallel to the right-hand edge or curb of the street, clear of any intersection, and shall stop and remain in such position until the authorized emergency vehicle or vehicles shall have passed, unless otherwise directed by a police officer. (SDCL 32-31-6)

It shall be unlawful for the driver of any vehicle, other than one on official business, to follow (closer than 500 feet) any fire apparatus, or to park any vehicle within the block where such fire apparatus has stopped to answer a fire alarm. It shall be further unlawful for the driver of any vehicle to drive over any unprotected hose of the Fire Department without the consent of authorized personnel. (SDCL 32-31-7)

Chapter 7.24: Motorcycles

Section	
7.24.02	Definitions
7.24.04	License
7.24.08	Muffler
7.24.10	Additional Riders
7.24.12	Operation in Parks
7.24.14	Non-applicable When

7.24.02 Definitions

As used in this chapter, the following word shall mean as follows:

“Motorcycle” includes motorcycles, motorbikes, bicycles with motor attached and all motor-operated vehicles of the bicycles or tricycle type, whether the motive power be a part thereof or attached thereto, and having a saddle or seat with the driver sitting astride or upon it, or platform on which the driver stands, but excluding a tractor.

7.24.04 License Required

No person shall operate on the public streets or highways without a motor vehicles driver’s license or permit upon which a state testing officer has certified that such person is qualified to operate such motorcycle.

7.24.08 Muffler

Each motorcycle shall at all times be equipped with an adequate muffler in constant operation and properly maintained to prevent any excessive or unusual noise, and no muffler or exhaust system shall be complete with a cutout, bypass or similar device. It is unlawful to make any alterations either by way of addition or modification of any original or stock muffler.

7.24.10 Additional Riders

It is unlawful for an operator or driver of a motorcycle while operating on the public streets or highways of the city to carry any other person thereon, except on a seat securely fastened to the machine to the rear of the driver provided with footrests or in a sidecar attached to the motorcycle and designed with the purpose of carrying a passenger. The passenger shall wear all of the safety equipment which is required for the operator of the motorcycle.

7.24.12 Operation in Parks

It is unlawful to operate a motorcycle in any municipal park or recreation area except upon the normally traveled roads or roadways, or in specifically designated areas.

7.24.14 Non-applicable When

This chapter shall not apply to vehicles used for special occasions such as display, parade, exhibitions and similar uses.

Chapter 7.26: Bicycles

Section

7.26.02	Reserved for Licensing
7.26.04	Reserved for Licensing
7.2606	Reserved for Licensing
7.26.08	Not Interfere with Pedestrians; No Riding Certain Areas
7.26.10	Must be Ridden Carefully
7.26.12	Must Obey Traffic Laws, Etc
7.26.14	No Two Persons on Bicycle except Tandem
7.26.16	Not More than Two Abreast
7.26.18	Lighting Required
7.26.20	No Riding without Permission, and No Damage to License Tag

7.26.08 Not Interfere with Pedestrians; No riding in Certain Areas

No person shall ride or propel any bicycle upon any public street, highway, alley or boulevard in this city in such a manner as to interfere with any pedestrian thereon, and no person shall ride or propel any bicycle upon the sidewalk in the Business District.

7.26.10 Must be Ridden Carefully

No bicycle shall be ridden faster than is reasonable and proper, but every bicycle shall be operated with reasonable regard to the safety of the operator and other persons.

7.26.12 Must Obey Traffic Laws, Etc.

Persons riding or propelling any bicycle shall observe all traffic laws, regulations and traffic signs.

7.26.14 No Two Persons on Bicycle except Tandem

No person shall propel or operate a bicycle upon said streets, highways, alleys or boulevards carrying or permitting to be carried any other person upon such bicycle, except that two persons may ride upon a tandem bicycle.

7.26.16 Not More than Two Abreast

No person shall ride or propel any bicycle upon any of said public streets, highways, alleys or boulevards or other public place in this city more than two abreast.

7.26.18 Lighting Required

No bicycle shall be permitted on any public street, highway, alley or boulevard in this city during the period from a half hour after sunset to a half hour before sunrise, and at any other time when there is not sufficient light to render clearly discernible any person on said street, highway, alley or boulevard at a distance of two hundred feet ahead unless said bicycle is equipped with a lighted lamp on the front thereof visible under normal atmospheric conditions from a distance of at least three hundred (300) feet in front of such bicycle and shall also be equipped with a reflex mirror lamp on the rear exhibiting a yellow or red light visible under like conditions from a distance of at least two hundred (200) feet to the rear of said bicycle.

7.26.20 No Riding Without Permission, and no Damage to License Tag

No person shall take any bicycle for the purpose of riding or propelling the same upon the street or other public highway without the consent of the owner.

Chapter 7.28: Pedestrians

Section

7.28.02	Pedestrians Subject to Traffic Control Signals
7.28.04	Pedestrians Right-of-Way in Cross-Walk
7.28.06	Crossing at Right Angles
7.28.08	When Pedestrian Shall Yield
7.28.10	Pedestrian Walking Along Roadway
7.29.12	Driver to Exercise Due Care
7.29.14	Definition of a Cross-Walk

7.28.02 Pedestrians Subject to Traffic Control Signals

Pedestrians shall be subject to traffic control signals as provided in Chapter 7.14 of this Title, but at all other places pedestrians shall be granted those rights and be subject to the restrictions stated in this Chapter.

7.28.04 Pedestrians Right-of-Way in Cross-Walk

- (a) When traffic control signals are not in place or not in operation and at all cross-walks, whether marked or unmarked, at all intersections, the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to yield to a pedestrian crossing the road within a cross-walk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger, but no pedestrian shall suddenly leave a curb or other place of safety and run or walk into the path of a vehicle, which is so close that it is impossible for the driver to yield.
 - (b) Whenever any vehicle is stopped at a marked cross-walk or at any unmarked cross-walk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.
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7.28.06 Crossing at Right Angles

No person shall cross a roadway at any place other than by a route at right angles to the curb or by the shortest route to the opposite curb except in a cross-walk.

7.28.08 When Pedestrian Shall Yield

Every pedestrian crossing a roadway at any point other than within a marked cross-walk, or within an unmarked cross-walk at an intersection, shall yield the right-of-way to all vehicles upon the roadway.

7.28.10 Pedestrian Walking Along Roadway

- (a) Where sidewalks are provided it shall be unlawful for a pedestrian to walk along and upon an adjacent roadway.
 - (b) Where sidewalks are not provided, any pedestrian walking along and upon a roadway shall, when practicable, walk only on the left side of the roadway or its shoulder facing traffic which may approach from the opposite direction.
 - (c) Where pedestrian walkways are provided on street surfaces by painted markings on the street or by visible signs, it shall be unlawful for vehicular traffic to travel on the surfaces that are designated as a walkway, and all pedestrian traffic shall proceed in the walkway area.
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7.28.12 Driver to Exercise Due Care

Notwithstanding the foregoing provisions of this Chapter every driver of a vehicle shall exercise due care and shall exercise proper precaution upon observing any person upon a roadway.

7.28.14 Definition of a Cross-Walk

A cross-walk is either (1) a prolongation for the sidewalk across and intersection, whether marked or unmarked, and whether or not there is a sidewalk leading up to either side of the intersection; (2) any portion of a roadway marked for pedestrian crossing.

Chapter 7.30: Accidents, Duties, Reports

Section	
7.30.02	Drivers Must Report Accidents
7.30.04	Duties of Passengers
7.30.06	Reports, How Made
7.30.08	Accident Scene Not to be Disturbed
7.10.10	State Reports and Admissibility

7.30.02 Drivers Must Report Accidents

The driver of any motor vehicle involved in an accident within the police jurisdiction of this city, which accident results in injury or death to any person or in property damage, shall immediately notify the City Police Station forthwith. It shall be unlawful to leave the scene of such accident without complying with the foregoing requirements.

7.30.04 Duties of Passengers

In the event the driver of any motor vehicle equipment involved in an accident within the police jurisdiction of this city shall be unable by reason of injury, death or other good and sufficient cause to report the accident as required in Section 7.3002 hereof, it shall be the duty of any passengers in said motor vehicle on the accident scene to make the required report, to make such report to the police station.

7.30.06 Reports, How Made

The accident reports required in Sections 7.3002 and 7.3004 hereof may be made orally unless requested in writing by the police department. If requested in writing the report will be completed on forms or in the manner requested by the police department.

7.30.08 Accident Scene Not to be Disturbed

In the event of an accident involving personal injury, death or property damage within the police jurisdiction of this city, it shall be the duty of the person or persons responsible for the motor vehicles involved to take all reasonable steps to prevent disturbance of the accident scene until the arrival of the police except for such emergency steps as may be required to care of the injured or provide for traffic safety pending the police investigation.

7.30.10 State Reports and Admissibility

Any supplemental report required by the state of South Dakota shall not be open to inspection unless permitted or allowed by the state and the admissibility in evidence of any such report shall be governed by state law or regulation.

Chapter 7.32: Snowmobiles

Section

7.32.02	Definitions
7.32.04	Unlawful Areas for Operation
7.32.06	Operation at Intersections and Crossings
7.32.08	Requirements for Operation
7.32.10	Snowmobile Equipment Requirement
7.32.12	Emergency Operation
7.32.14	Unlawful to Operate in Manner Detrimental to Animals

7.32.02 Definitions

For the purposes of this Ordinance there are terms defined herein which shall have the meaning ascribed to them.

- a. “Person” includes an individual, partnership, corporation, the state and its agencies and subdivisions, and any body of persons whether incorporated or not.
 - b. “Snowmobile” means a self-propelled vehicle designed for travel on snow or ice or natural terrain steered by wheels, skis or runners.
 - c. “Owner” means a person having the property in or title to a snowmobile and entitled to the use or possession thereof.
 - d. “Operate” means to ride in or on and control the operation of a snowmobile.
 - e. “Operator” means every person who operates or is in actual physical control of a snowmobile.
 - f. “Roadway” means that portion of a highway improved, designed or ordinarily used for vehicle travel.
-

7.32.04 Unlawful Area for Operation

Except as herein specifically permitted and authorized, it is unlawful for any person to operate a snowmobile within the limits of the City of Clark.

- a. On the portion of any right-of-way or any highway, street, road, trail or alley used for motor vehicle travel, except where limited to a route of travel from the owner’s residence to the city limits, and this to be on the most direct route permissible.
- b. On a public sidewalk provided for pedestrian travel.

- c. On boulevards within any public right-of-way.
- d. On private property of another without specific permission of the owner or person in control of said property, and this permission to be in writing and in the possession of the person who is operating the snowmobile.
- e. On any other public place.
- f. Two or more snowmobiles traveling in the same direction shall be operated one behind the other with an interval of at least fifteen (15) feet between, and in no case shall snowmobiles ever be operated side by side.
- g. No snowmobile shall be allowed or shall be operated upon the streets of the Business District.

Persons residing in the above area are allowed to bring their snowmobiles upon their property.

- h. No snowmobile shall be parked on any street at any time.
- i. Lights must be on at any time snowmobile is operated on any roadways within city limits.
- j. Operation of snowmobiles for special occasions, not in accordance with this Ordinance, shall be under the jurisdiction and control of the Police Department.

7.32.06 Operation at Intersections and Crosswalks

A snowmobile may make a direct crossing of a street or highway provided:

- a. The crossing is made at an angle of approximately 90 degrees to the direction of the street or highway and at a place where no obstruction prevents a quick and safe crossing.
- b. The snowmobile is brought to a complete stop before crossing the shoulder or main traveled way.
- c. No snowmobile shall enter any intersection without yielding the right-of-way to any vehicles or pedestrians at the intersection or so close to the intersection as to constitute an immediate hazard.

7.32.08 Requirements for Operation

- a. No person under twelve (12) years of age shall operate on streets or the roadway surface of highways, and no person under sixteen (16) years of age shall operate on any part of the state trunk system within the boundaries of the City as the operator of a snowmobile, unless accompanied by parent or guardian or by an individual eighteen (18) years of age or older.
- b. It is unlawful for the owner of a snowmobile to permit the snowmobile to be operated contrary to the provisions of this section.
- c. It is unlawful for any person to operate a snowmobile within the limits of the City:
 - 1. At any place, while under the influence of alcohol or drugs as defined in SDCL Title 32-23-7, which is hereby incorporated herein by reference.
 - 2. At a rate of speed greater than reasonable or proper under all surrounding circumstances; and when operated on public roadways, in no case greater than 15 miles per hour.
 - 3. At any place in a careless, reckless or negligent manner or heedlessly in disregard of the rights or safety of others, or in a manner so as to endanger or be likely to endanger or cause injury or damage to any person or property.
 - 4. So as to tow any person or thing in a public street or highway except through use of a rigid tow-bar attached to the rear of the snowmobile.
 - 5. Within 100 feet of any pedestrian or area where the operation would conflict with use or endanger other persons or property.
 - 6. On any public or private school, cemeteries, public or private golf courses or city parks, except as posted.
- d. Any person operating a snowmobile in the City of Clark shall observe all applicable regulations of the Title pertaining to motor vehicles. In addition, night driving shall be prohibited unless entering or leaving the City limits. (SDCL 32-20A-9)

7.32.10 Snowmobile Equipment

It is unlawful for any person to operate a snowmobile any place within the limits of the City unless it is equipped with the following:

- a. Standard mufflers which are properly attached and which reduce the noise of the operation of the motor to the minimum necessary for operation. No person shall

- use a muffler cutout, by-pass, straight pipe or similar device on a snowmobile motor.
- b. Brakes adequate to control the movement of and to stop and hold the snowmobile under any condition of operation.
 - c. A safety or so-called “deadman” throttle in operating condition, when pressure is removed from the engine accelerator or throttle, caused the motor to be disengaged from the driving track.
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7.32.12 Emergency Operation

Notwithstanding any prohibitions of this Ordinance, a snowmobile may be operated on a public thoroughfare in an emergency during the period of time when and at locations where snow upon the roadway surface renders travel by automobile impractical.

7.32.14 Unlawful to Operate in Manner Detrimental to Animals

It is unlawful to intentionally drive, chase, run over or kill any animals with a snowmobile.

Chapter 7.33: Golf Carts

Section

7.33.02	Use of Golf Carts on City Streets
7.33.04	Golf Cart – Definition
7.33.06	Permit Required
7.33.08	Use on State of County Highway Prohibited
7.33.10	Traffic Rules Apply
7.33.12	Seating
7.33.99	Penalty

7.33.02 Use of Golf Carts on City Streets

The City of Clark hereby permits the use of golf carts on the municipal streets of the City of Clark subject to the restrictions and requirements set forth in this Ordinance.

7.33.04 Golf Cart - Definition

For the purposes of this Ordinance, the term, “golf cart”, means a four wheeled vehicle 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.

7.33.06 Permit Required

The person operating the golf cart shall obtain a permit from the City of Clark to operate the golf cart on municipal streets. No permit may be obtained prior to July 1, 2010. Requirements for obtaining the permit are as follows:

- (1) The golf cart is to be insured for liability.
- (2) The person operating the golf cart shall hold a valid driver’s license.
- (3) The golf cart shall be required to display a slow-moving vehicle emblem in accordance with SDCL 32-15-20 or a white or amber warning light in accordance with SDCL 32-17-46.
- (4) An annual registration (January – December) fee of \$10.00 shall be paid to the City of Clark at the time of application. Registration is not transferrable with a change in ownership.
- (5) A registration sticker shall be provided upon obtaining the permit from the City of

Clark. The sticker shall be affixed in a visible location upon the exterior of the golf cart.

7.33.08 Use on State or County Highway Prohibited

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.

7.33.10 Traffic Rules Apply

An operator of a golf cart shall comply with all city, county and state traffic rules and regulations applying to motor vehicles generally, except that a golf cart shall not be required to have a bell, horn or directional turn signals.

7.33.12 Seating

The operator and occupants of a golf cart shall be seated at all times. It shall be unlawful for more than two people to occupy the front seat while the golf cart is in motion.

7.33.99 Penalty

Any person violating any of the provisions of this article shall be guilty of a municipal ordinance violation punishable by a fine not exceeding Five Hundred Dollars (\$500.00) or by imprisonment for a period not exceeding thirty (30) days, or by both such fine and imprisonment.

Chapter 7.34: Three Wheel or All Terrain Vehicles

Section

7.34.02	Definitions
7.34.04	Unlawful Areas for Operation
7.34.06	Operation at Crossings and Intersections
7.34.08	Requirements for Operation
7.34.10	Three Wheel or All-terrain Vehicle Equipment Requirement
7.34.12	Unlawful to Operate in Manner Detrimental to Animals

7.34.02 Definitions

For the purposes of this Ordinance there are terms defined herein which shall have the meaning ascribed to them.

- a. “Person” includes an individual, partnership, corporation, the state and its agencies and subdivisions, and any body of persons, whether incorporated or not.
 - b. “Three Wheel or All-terrain Vehicle” means a self-propelled vehicle designed for travel on snow, ice or natural terrain steered by wheels.
 - c. “Owner” means a person having the property in or title to three wheel or all-terrain vehicle entitled to the use or possession thereof.
 - d. “Operate” means to ride in or on and control the operations of a three wheel or all-terrain vehicle.
 - e. “Operator” means every person who operated or is in actual physical control of a three wheel or any all-terrain vehicle.
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7.34.04 Unlawful Areas for Operation

- a. No person may operate on a public street or highway a three wheel or all-terrain vehicle except for crossing from one side of the road to the other. A person may operate a three wheel or all-terrain vehicle in a highway ditch if the vehicle is operated as close as possible to the outer edge of the highway right-of-way. (SDCL 32-20-12)
- b. No three wheel or all-terrain vehicle shall be parked on any street at any time.
- c. Operation of three wheel or all-terrain vehicles for special occasions, not in accordance with this Ordinance, shall be under the jurisdiction and control of the Clark Police Department.

- d. Lights must be on at any times the three wheel or all-terrain vehicle is operated within the City limits.

7.34.06 Operation at Crossings and Intersections

A three-wheel or all-terrain vehicle may make a direct crossing of a street or highway provided:

- a. The crossing is made at an angle approximately 90 degrees to the direction of the street or highway and at a place where no obstruction prevents a quick and safe crossing.
- b. The three-wheel or all-terrain vehicle is brought to a complete stop before crossing the shoulder or main traveled way.
- c. No three-wheel or all-terrain vehicle shall enter any intersection without yielding the right-of-way to any vehicles or pedestrians at the intersection or so close to the intersection as to constitute an immediate hazard.

7.34.08 Requirements for Operation

It is unlawful for any person to operate a three-wheel or all-terrain vehicle within the limits of the City.

- a. At any place, while under the influence of alcohol or drugs as defined in SDCL 32-23-7, which is hereby incorporated herein by reference.
- b. At a rate of speed greater than reasonable or proper under all surrounding circumstances.
- c. At any place in a careless, reckless or negligent manner or needlessly in disregard of the rights or safety of others, or in a manner so as to endanger or be likely to endanger or cause injury or damage to any person or property.
- d. Within 100 feet of any pedestrian or area where the operation would conflict with use or endanger other persons or property.
- e. On any public or private school, cemeteries, public or private golf courses or city parks.

7.34.10 Three Wheel or All-Terrain Vehicle Equipment Requirement

It is unlawful for any person to operate a three-wheel or all-terrain vehicle any place within the limits of the City unless it is equipped with the following:

- a. Standard mufflers which are properly attached and which reduce the noise of the operation of the motor to the minimum necessary for operation. No person shall use a muffler cutout, by-pass, straight pipe or similar device on a three-wheel or all-terrain vehicle motor.
 - b. Brakes adequate to control the movement of and to stop and hold the three-wheel or all-terrain vehicle under any condition of operation.
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7.34.12 Unlawful to Operate in Manner Detrimental to Animals

It is unlawful to intentionally drive, chase, run over or kill any animal with a three wheel or all-terrain vehicle.

Chapter 7.35: Parking on City Streets During Snow Removal

Section	
7.35.02	Definition
7.35.04	Declaration of Snow Removal
7.35.06	Parking Prohibited During Snow Removal Alert
7.35.08	Restricted Parking in Alleys
7.35.10	No Authorization for Otherwise Prohibited or Restricted Parking
7.35.12	Notice of Applicable News Media Outlet
7.35.14	Termination
7.35.99	Penalty

7.35.02 Definitions

“Street” means the entire width of any public roadway within the city, and it shall not be limited to those roadways designated as a “street” but shall include all other names by which public roadways are designated, but shall not include alleys or alleyways.

“Snow removal alert” means such times as there is a snow accumulation on the public streets of two inches or more, or such times as the Mayor or his designee declares that snow removal operations on the public streets will commence and that the provision of this chapter in regard to parking on public streets during snow removal operations are effective and will be enforced.

7.35.04 Declaration of Snow Removal Alert

When the Mayor or his designee determines that snow removal from the public streets will commence, the Mayor or his designee will announce through the news media and whatever other sources are available that there has been declared a snow removal alert and that the provisions of this chapter will be effective and be enforced, designating a particular date and time when such alert shall commence. The determination to declare a snow removal alert will be based on the then existing weather conditions, and the amount of snow then on the ground or expected according to forecasts from the National Weather Service.

7.35.06 Parking Prohibited During Snow Removal Alert

In the event a snow removal alert is declared, no person shall park or allow to remain parked any motor vehicle or trailer on any public street in the City until such time as said street is cleared of snow accumulation, curb-to-curb, and the snow removal equipment is no longer operating in that area. Refer to 7.08.12 for time of limit of parked vehicle.

7.35.08 Restricted Parking in Alleys

In the event of a snow removal alert, parking in alleys shall be permitted; provided, however, no person shall park or allow to remain parked any motor vehicle or trailer on any public alley in the City so as to obstruct emergency through traffic.

7.35.10 No Authorization for Otherwise Prohibited or Restricted Parking

Nothing in this chapter authorizes parking of a vehicle where otherwise prohibited or restricted by signs or otherwise.

7.35.12 Notice of Applicable News Media Outlet

The Mayor or his designee shall, each calendar year, cause to be published in the Clark County Courier, prior to the declaration of the first snow removal alert, notice of which news media outlets shall be advised of the declaration of a snow removal alert in the City of Clark. Said media shall consist of at least one television station and one radio station both of which shall be accessible to a majority of the residents of the City of Clark.

7.35.14 Termination

After a snow removal alert has been declared, there will be no declaration of its termination, but such alert shall terminate and the provisions of “Section 7.3506 shall become not effective nor enforceable as to any particular street or portion of a street, as soon as that street or portion thereof has been plowed and cleared of snow accumulation, curb-to-curb, and the snow removal equipment is no longer operating in that area, after which normal parking may be resumed until the next declared snow removal alert.

7.35.99 Penalty

Any person violating any of the provisions of this article are subject to the following penalties:

1. Parking on streets, avenues or snow routes during the days they are scheduled to be plowed will result in a fine set by the City’s Fines Resolution. Officers will do same day ticketing of vehicles blocking the snow plows from clearing the city’s streets and avenues.
2. If the obstructing vehicle remains on the street longer than 24 hours after being plowed around, it will be towed at the expense of the owner. Before the owner can reclaim their car, the owner must pay the fine to the City and the towing costs to the towing company.

Chapter 7.36: Procedure on Arrest of Violator

Section

7.36.02 Procedure on Arrest of Violator

7.36.02 Procedure on Arrest of Violator

Except as otherwise specifically provided, whenever any person is arrested for a violation of any provision of this Title punishable as a misdemeanor, the arresting officer shall take the name and address of such person and the license number of his motor vehicle and issue a summons or otherwise notify him in writing to appear at a time and place to be specified in such summons or notice. Any person who intentionally violates his written promise to appear given in accordance with the provisions of this Section, shall be guilty of a misdemeanor regardless of the disposition of the charge upon which he was originally arrested.

Chapter 7.99: Punishment

Section

7.99.02 Punishment

7.99.02 Punishment

Any person violating any of the provisions of the title shall upon conviction thereof, be punished by a fine of not to exceed Two Hundred (\$200.00) Dollars, or imprisonment not to exceed thirty (30) days, or by both such fine and imprisonment. In addition, if such violation is of any provision involving the licensee the City Council may revoke the license of any licensee so convicted after notice and opportunity for hearing.

Title 8 - Licenses

Chapter

- 8.02 General Provisions
 - 8.04 Public Dancing and Public Dance Halls
 - 8.06 Transient Merchants, Peddlers
 - 8.08 Plumbers and Electricians
-

Chapter 8.02: General Provisions

Section	
8.02.02	License, Unlawful Without
8.02.04	Application for License
8.02.06	License Expiration
8.02.08	Revocation
8.02.10	Issuance of License
8.02.12	Record of Licenses

8.02.02 License, Unlawful Without

It shall be unlawful for any person, persons, firm or corporation to engage in any activity for which a license is required without first having obtained a license, as hereinafter provided. The City Council may at any time expand the general provisions of this Chapter by requiring any person, persons, firm or corporation engaging in any trade, business or occupation within the City which is not specified by this Ordinance to obtain a license, as deemed necessary.

8.02.04 Application for License

Any person, persons, firm or corporation wishing to obtain a license as herein provided, shall make written application to the City Council, stating the name of the applicant, address, purpose of the activity, the length of time for which said license is wanted, and the particular place at which said license is to be used.

Fees for all licenses shall be fixed by the City Council, where not specified in this Ordinance, and all license fees shall be paid in full at the time of application in such manner as approved by said Council.

8.02.06 License Expiration

Any annual license granted under the provisions of this Chapter shall expire on the 31st day of December next following the granting thereof, except as 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 said calling, vocation, or kind of business for which said license was issued.

8.02.08 Revocation

The City Council shall have the authority at any time to suspend or revoke any license

granted under the provision of this Chapter whenever said Council shall be satisfied upon written complaint that any such calling, vocation, or kind of business for which said license had been issued, has been made or conducted in an improper or illegal manner, and in case of such revocation, the City Council may refund to the holder of such license such proportionate amount of money paid therefore as said Council shall deem just.

8.02.10 Issuance of License

Except as otherwise provided, all licenses shall be issued by the Finance Officer after issuance of the license has been approved by the City Council and the applicant shall have complied with all requirements for issuance of such license. Unless otherwise provided, all licenses shall be signed by the Finance Officer and shall have affixed thereto the official seal of the City.

8.02.12 Record of Licenses

The Finance Officer shall keep a record of all licenses issued by the City stating when and to who issued, for what purpose and for what length of time, the amount of money paid for said license, and the place where such activity is to be carried on.

Chapter 8.04: Public Dancing and Public Dance Halls

Section	
8.04.02	License Fees
8.04.04	Minors Prohibited
8.04.06	Supervision
8.04.08	Dance Halls Defined

8.04.02 License Fees

If the City Council approves any application for a license to operate a public dance hall or conduct a public dance, as provided herein, the applicant shall pay to the Finance Officer the annual fee of Fifty Dollars (\$50). A one-night dance license shall be Ten Dollars (\$10). The applicant shall be responsible and liable for any damage or littering resulting from such activity and as such shall assume all liabilities.

8.04.04 Minors Prohibited

No person or persons under the age of eighteen (18) years shall be permitted to enter or remain in any public dance hall unless accompanied by his or her father, mother, or legally appointed guardian.

8.04.06 Supervision

Public dances conducted in any public hall licensed hereunder may be required by the City Council to retain one or more supervisors, who shall be authorized to remove any person who is intoxicated or is conducting himself or herself in an improper or disorderly manner. No public dance or public dance hall shall be conducted past the hour of one o'clock (1:00) a.m.

8.04.08 Dance Halls Defined

A public dance hall, as the term is used in the Chapter, shall be construed to mean any place or space open to public patronage in which dancing, wherein the public may participate, is carried on and to which admission may be had by the public, by payment either directly or indirectly of an admission fee price for dancing, for the personal gain or profit of the person, firm or corporation, conducting, maintaining, or operating such public dance hall.

Nothing in this Chapter shall be construed to apply to dances conducted, maintained or operated as a community enterprise and without personal profit to any person, firm or

corporation. (SDCL 9-34-25, SDCL 42-4-1)

Chapter 8.06: Transient Merchants, Peddlers

Section	
8.06.02	Definitions
8.06.04	License Required
8.06.06	Peddlers License
8.06.08	Revocation of License
8.06.10	Approval of License
8.06.12	Exceptions
8.06.99	Penalties

8.06.02 Definitions

- “Transient Merchant”, “Itinerant Merchant” or “Itinerant Vendor” is defined as any person, firm or corporation, whether as owner, agent, consignee or employee, whether a resident of the City or not, who engages in a temporary business of selling and delivering goods, wares and merchandise within said City. The person, firm or corporation so engaged shall not be relieved from complying with the provisions of this Chapter merely by reason by associating temporarily with any local dealer, trader, merchant, or by conducting such transient business in connection with as a part of or in the name of any local dealer, trader or merchant.
 - “**Peddler**” as used herein shall include any person, whether a resident of the City or not, traveling by foot, wagon, automotive vehicle, or other type of conveyance, from place to place, from house to house, or from street to street, carrying, conveying or transporting goods, wares or merchandise, offering and exposing the same for sale, or making sales and delivering articles to purchasers. (SDCL 9-34-7)
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8.06.04 License Required

Every transient merchant, itinerant merchant, or itinerant vendor as defined herein shall pay to the City a license fee of fifty dollars (\$50) per day that said transient merchant, itinerant merchant or itinerant vendor shall conduct said business licensed under this Chapter. Said license fee shall be payable in advance, and the license issued under this Chapter shall be posted conspicuously in the place of business of business named therein.

8.06.06 Peddlers License

It shall be unlawful for any person to be engaged in the business of peddler within the corporate limits of the City without first obtaining a permit and license therefore as provided herein. The fees required for such peddlers for said licenses shall be fifty dollars (\$50) per day payable in advance, provided that no fee shall be required of one selling

products actually produced by the seller. Peddlers are required to exhibit their licenses at the request of any citizen. (SDCL 9-34-8)

8.06.08 Revocation of License

Any license issued hereunder may be revoked, after notice and hearing, for any of the following cases:

1. Fraud, misrepresentation of false statements contained in the application for license;
 2. Fraud, misrepresentation or false statements made in the course of carrying on the business as a peddler, itinerant merchant, itinerant vendor or transient merchant hereunder.
 3. Any violation of the Chapter.
 4. Conviction of any crime or misdemeanor involving moral turpitude.
 5. Conducting the business licensed hereunder in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of public.
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8.06.10 Approval of License

Any person seeking to obtain a license under the provisions of this Chapter shall pay to the City Finance Officer the amount provided for by this Chapter for such license, for which the Finance Officer shall furnish the applicant a receipt designating kind of place and activity applied for. Upon presentation of said receipt, the Mayor or Council President, at his/her discretion reviews the application and deems if the applicant a suitable and proper person to have such license, shall endorse on a said receipt the word “granted” and sign the endorsement officially. Said receipt when signed shall be deemed a good and sufficient license. If the Mayor or Council President does not grant said license, the applicant shall be informed of the same and the Finance Officer shall thereupon refund the amount of the license paid and the applicant’s receipt shall be the Finance Officer’s voucher for the money returned.

8.06.12 Exceptions

Nothing in this Chapter shall extend to any sale of livestock or farm products, or any second hand furniture or household goods by or for any person or persons who shall have actually used the same in the City, or to any sale of goods, wares or merchandise by public officers in the pursuance of legal process, or to goods, wares or merchandise sold by nonprofit enterprises, except that such nonprofit enterprises shall be required to obtain

a special permit for said sales. The City Finance Officer shall issue special permits, without the payment of any license fees or other charges therefore, to any enterprise, either regularly or temporarily, when he finds that the applicant operates without private profit, for a public, charitable, educational, literary, scientific or religious purpose. An applicant for a special permit shall submit an application therefore to the City Finance Officer and shall furnish such additional information and shall make such Affidavits as the City Finance Officer shall require. A person or organization operating under a special permit shall operate his nonprofit enterprise in compliance with this Chapter and other applicable rules and regulations. (SDCL 9-34)

8.06.99 Penalties

Any person violating any of the provisions of this Chapter, shall, upon conviction thereof, be punished by fine not to exceed One Hundred Dollars (\$100) or by imprisonment not to exceed thirty (30) days or both such fine and imprisonment for each day of operation in violation of this Chapter shall be deemed a separate offense.

Chapter 8.08: Plumbers and Electricians

Section

8.08.02 Registration Required

8.08.02 Registration Required

No person shall engage in or do any work as a plumbing or electrical contractor, plumber or electrician, or apprentice in the City unless registered to do so with the South Dakota State Plumbing Board or State Electrical Board pursuant to SDCL 36-16 and 36-25. A copy of such registration shall be filed with the City Finance Officer. Nothing in this Section shall prohibit any person from doing plumbing or electrical work which complies with the provisions of the minimum standards prescribed by the South Dakota State Plumbing Board or State Electrical Board on property owned and occupied by him or her or on premises where he or she may be employed in full time maintenance work, provided that such plumbing or electrical work is still subject to all other applicable ordinances and regulations. (SDCL 9-34-12)

Title 9 - Taxes

Chapter 9.02: City Sales Tax

Section	
9.02.02	Purpose
9.02.04	Effective Date and Enactment of Tax
9.02.06	Use Tax
9.02.08	Collection
9.02.10	Interpretation
9.02.12	Penalty
9.02.14	Separability

9.02.02 Purpose

The purpose of this ordinance is to provide additional needed revenue for the Municipality of Clark, Clark County, South Dakota, by imposing a Municipal Retail Sales and Use Tax pursuant to the powers of the municipality by the State of South Dakota by SSDCL 10-52, entitled Uniform Municipal Non-Ad Valorem Tax Law, and acts amendatory thereto.

9.02.04 Effective Date and Enactment of Tax

From and after the first day of January, 2004, there is hereby imposed as a municipal retail occupational sales and service tax upon the privilege of engaging in business a tax measured by Two Percent (2%) on the gross receipts of all persons engaged in business within the jurisdiction of the Municipality of Clark, Clark County, South Dakota, who are subject to the South Dakota Retail Occupational Sales and Service Tax, SDCL 10-45 and acts amendatory thereto.

9.02.06 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 and services purchased from and after the first day of January, 2004, at the same rate as the municipal sales and service tax upon all transactions or use storage and consumption which are subject to the South Dakota Use Tax Act, SDCL 10-46, and act amendatory thereto.

9.02.08 Collection

Such tax is levied pursuant to authorization granted by SDCL 10-52 and acts amendatory thereto, and shall be collected by the South Dakota Department of Revenue and Regulation in accordance with the same rules and regulations applicable to the State Sales Tax and under such additional rules and regulations as the Secretary of Revenue and Regulation of the State of South Dakota shall lawfully prescribe.

9.02.10 Interpretation

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

9.02.12 Penalty

Any person failing or refusing to make reports or payments prescribed by this ordinance 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 Two Hundred Dollars (\$200.00) or imprisoned in the jail utilized by the City for thirty (30) days or both such fine and imprisonment. In addition, all such collection remedies authorized by SDCL 10-45, and acts amendatory thereto, and SDCL 10-46, and acts amendatory thereto are hereby authorized for the collection of these excise taxes by the Department of Revenue and Regulation.

9.02.14 Separability

If any provision of this ordinance is declared unconstitutional or the application thereof to any person or circumstances hold invalid the constitutionality of the remainder of the ordinance, the applicability thereof to other persons or circumstances shall not be affected thereby.

Title 10 - Water and Sewer

Chapter

- 10.02 Costs and Charges
 - 10.04 Definitions
 - 10.06 Use of Public Sewers Required
 - 10.08 Private Wastewater Disposal
 - 10.10 Sanitary Sewers, Building Sewers and Connections
 - 10.12 Use of Public Sewers
 - 10.14 Violations
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 - 10.18 Hearing Board
 - 10.20 Water Provisions
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Chapter 10.02: Costs and Charges

Section

10.02.02	Annual Costs of Operation and Maintenance
10.02.04	User's Wastewater Contribution Percentage
10.02.06	Surcharge for Excess Wastewater Contribution
10.02.10	Wastewater Facilities Replacement Fund
10.02.12	Payment of User Fees and Charges; Notification
10.02.14	Review of, Changes to Fees and Charges

10.02.02 Annual Costs of Operation and Maintenance

The City, or its City Engineer, shall determine the total annual costs of operation and maintenance of the wastewater system which are necessary to maintain the capacity and performance, during the service life of the treatment works, for which such works were designed and constructed. The total annual cost of operation and maintenance shall include, but need not be limited to, labor, repairs, equipment replacement, maintenance, necessary modifications, power, sampling, laboratory tests and a reasonable contingency fund.

10.02.04 User's Wastewater Contribution Percentage

The City, or its City Engineer, shall determine for each user or user class the average volume of wastewater discharged to the wastewater system, which shall then be divided by the average daily volume of all wastewater discharged to the wastewater system to determine such user's Volume Contribution Percentage. The amount used as the total average daily volume of wastewater shall exclude infiltration and inflow.

The City, or its City Engineer, shall determine for each user or user class the average daily poundage of 5-day 20-degree Centigrade Biochemical Oxygen Demand (BOD) discharged to the wastewater system which shall then be divided by the average daily poundage of all 5-day BOD discharged to the wastewater system to determine such user's BOD Contribution Percentage.

The City of its Engineer shall determine for each user or user class the average daily total Suspended Solids (TSS) poundage discharged to the wastewater system which shall then be divided by the average daily poundage of all TSS discharged to the wastewater system, to determine such user's TSS Contribution Percentage.

The Volume Contribution Percentage, BOD Contribution Percentage for each use or user class shall be multiplied by the annual operation and maintenance costs for wastewater treatment of the total volume flow, total 5-day 20-degree Centigrade BOD and total TSS, respectively.

10.02.06 Surcharge for Excess Wastewater Contribution

The City or its Engineer will assess a surcharge rate for all non-residential users discharging wastes with BOD and TSS strengths greater than the average residential user. Such user will be assessed a surcharge sufficient to cover the cost of treating their above-normal strength wastes. Normal strength wastes are considered to be 200 ppm BOD and 250 ppm TSS. The surcharge rate structure for such above –normal strength waste dischargers will be an additional service charge of .63 cents per 1000 gallons for each 25 ppm over 200 ppm of BOD and .75 cents per 1000 gallons for each 25 ppm over 250 ppm TSS.

10.02.10 Wastewater Facilities Replacement Fund

A reserve fund called the Wastewater Replacement Fund is hereby established within the Wastewater Utility Fund for the purpose of providing sufficient funds to be expended for obtaining and installing equipment, accessories and appurtenances during the useful life (20 years) of the wastewater treatment facilities necessary to maintain the capacity and performance for which such facilities are designed and constructed. This fund shall be funded by a deposit of \$1,500.00 per year obtained from the Wastewater Utility Fund at the end of each fiscal year.

10.02.12 Payment of User Fees and Charges; Notification

The City shall submit an annual statement to the user for the user's annual wastewater service charge or one-twelfth of the user's annual wastewater service charge may be included with the monthly water and/or wastewater utility billing. The City shall add a penalty of one percent (1%) per month if the payment is not received by the City within 30 days. Should any user fail to pay the user wastewater service charge and penalty within three (3) months of the due date, the City may stop the wastewater service to the property.

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.

10.02.14 Review of, Changes to Fees and Charges.

The City shall review the total annual 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. The City shall apply excess revenues collected from a class of users to the costs of operation and maintenance attributable to that class for the next year and adjust the rate accordingly. 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 present, at a regularly scheduled meeting of the governing body, such factual information and the City shall then determine if the user's Wastewater Contribution Percentage is to be changed. The City shall notify the user of its findings as soon as possible.

Chapter 10.04: Definitions

Section	
10.04.02	Approving Authority
10.04.04	Biochemical Oxygen Demand
10.04.06	Building Drain
10.04.08	Building Sewer
10.04.10	Combined Sewer
10.04.12	Easement
10.04.14	Floatable Oil
10.04.16	Garbage
10.04.18	Industrial Wastes
10.04.20	Municipality
10.04.22	Industrial User
10.04.24	Natural Outlet
10.04.26	Normal Strength Domestic Wastewater
10.04.28	NPDES Permit
10.04.30	May
10.04.32	Parts Per Million
10.04.34	Person
10.04.36	PH
10.04.38	Properly Shredded Garbage
10.04.40	Public Sewer
10.04.42	Sanity Sewer
10.04.44	Sewage
10.04.46	Sewer
10.04.48	Shall
10.04.50	Slug
10.04.52	Storm Drain
10.04.54	Storm Water Runoff
10.04.56	Sump Pump
10.04.58	Superintendents
10.04.60	Suspended Solids
10.04.62	Unpolluted Water
10.04.64	Wastewater
10.04.66	Wastewater Facilities
10.04.68	Wastewater Treatment Works
10.04.70	Watercourse
10.04.72	Hearing Board
10.04.74	Other Terms

Unless the context specifically indicates otherwise, the meaning of terms used in this Ordinance shall be as follows:

10.04.02 Approving Authority

Approving authority shall mean the City Council or its duly authorized board, agent or representative.

10.04.04 Biochemical Oxygen Demand

Biochemical oxygen demand (BOD) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20 degrees Centigrade, expressed in milligrams per liter.

10.04.06 Building Drain

Building drain shall mean that 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 (5) feet (1.5 meters) outside the inner face of the building wall.

10.04.08 Building Sewer

Building sewer shall mean the extension from the building drain to the public sewer or other place of disposal, also called house connection.

10.04.10 Combined Sewer

Combined sewer shall mean a sewer intended to receive both wastewater and storm or surface water.

10.04.12 Easement

Easement shall mean an acquired legal right for the specific use of land owned by others.

10.04.14 Floatable Oil

Floatable oil is 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 pretreated and the wastewater does not interfere with the collection system.

10.04.16 Garbage

Garbage shall mean the animal and vegetable waste resulting from the handling preparation, cooking and serving of foods.

10.04.18 Industrial Wastes

Industrial Waste shall mean the wastewater from industrial processes, trade or business as distinct from domestic or sanitary wastes.

10.04.20 Municipality

Municipality shall mean the City of Clark, South Dakota, or any authorized person or board acting in its behalf

10.04.22 Industrial User

- (a) Any non-governmental user of publicly owned treatment works which discharges more than 25,000 gallons per day of sanitary wastes or a volume of processed waste or combined processed and sanitary wastes equivalent to 25,000 gallons per day of sanitary wastes. Sanitary wastes are the wastes discharged from the average residential user in the City. The strength of the average residential waste discharged in the City is defined in Section 10.0426 – Normal Strength Domestic Wastewater. These concentrations shall be applied in determining equivalent volume of processed waste or combined discharges of sanitary and processed wastes; or
 - (b) Any non-governmental user of a publicly owned treatment works which discharges wastewater to the treatment works which contains toxic or poisonous solids, liquids or gasses of sufficient quantities 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 or have an adverse effect on the waters receiving any discharge from the treatment works.
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10.04.24 Natural Outlet

Natural outlet shall mean any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake or other body of surface or groundwater.

10.04.26 Normal Strength Domestic Wastewater

Normal strength domestic wastewater shall mean normal strength wastewater for the City in which the average concentration of suspended materials and 5-day BOD is established at not greater than 250 and 200 parts per million, respectively, by weight. Such wastewater does not include infiltration and/or inflow, and it is composed of domestic wastewater.

10.04.28 NPDES Permit

NPDES permit shall mean the National Pollutant Discharge Elimination System Permit held by the City. This permit, which establishes limits on quality and quantity of discharges from the City treatment works, was issued by the state and Federal governments in accordance with the provisions of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, et. seq; the Act).

10.04.30 May

May is permissive (see shall, Sec. 10.0448)

10.04.32 Parts Per Million

Parts per million shall mean a weight-to-weight ratio; the parts per million value multiplied by the factor 8.345 shall be equivalent to pounds per million gallons of water. Parts per million and milligrams per liter (mg/l) shall be synonymous terms.

10.04.34 Person

Person shall mean any individual, firm, company, association, society, corporation or group.

10.04.36 pH

pH shall mean 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 7 and a hydrogen-ion concentration of ten (10) to the negative seven (7) power.

10.04.38 Properly Shredded Garbage

Properly shredded garbage shall mean the wastes from the preparation, cooking, and

dispensing of foods that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than ½ inch (1.27 centimeters) in any dimension.

10.04.40 Public Sewer

Public sewer shall mean a common sewer controlled by a governmental agency or public utility.

10.04.42 Sanitary Sewer

Sanitary Sewer shall mean 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.

10.04.44 Sewage

Sewage is the spent water of a community. The preferred term is Wastewater.

10.04.46 Sewer

Sewer shall mean a pipe or conduit that carries wastewater or drainage water.

10.04.48 Shall

Shall is mandatory

10.04.50 Slug

Slug shall mean any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation and shall adversely affect the collection system and/or performance of the wastewater treatment works.

10.04.52 Storm Drain

Storm drain (sometimes termed storm sewer) shall mean a drain or sewer for conveying water, groundwater, subsurface water or unpolluted water from any source.

10.04.54 Storm Water Runoff

Storm water runoff shall mean that portion of rainfall or snowmelt that is drained to the storm drains or otherwise does not evaporate or enter the groundwater.

10.04.56 Sump Pump

Sump Pump shall mean a pump for disposing of storm drainage or ground water collected by foundation drains or seepage to a common point.

10.04.58 Superintendent

Superintendent shall mean the superintendent of wastewater facilities, and/or of wastewater treatment works, and/or of water pollution control of the City or his authorized deputy, agent or representative.

10.04.60 Suspended Solids

Suspended solids shall mean 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 nonfilterable residue.

10.04.62 Unpolluted Water

Unpolluted water is 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 benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

10.04.64 Wastewater

Wastewater shall mean 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 water and storm water that may be present.

10.04.66 Wastewater Facilities

Wastewater facilities shall mean the structures, equipment and processes required to collect, carry away and treat domestic and industrial wastes and dispose of the effluent.

10.04.68 Wastewater Treatment Works

Wastewater treatment works shall mean 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.

10.04.70 Watercourse

Watercourse shall mean a natural or artificial channel for the passage of water either continuously or intermittently.

10.04.72 Hearing Board

Hearing board shall mean that board appointed according to provision of Chapter 10.18.

10.04.74 Other Terms

Other terms and abbreviations used herein which are not specifically defined by law shall be construed in conformance with the context and commonly accepted professional usage.

Chapter 10.06: Use of Public Sewers Required

Section

10.06.02	Unlawful to Deposit
10.06.04	Unlawful to Discharge
10.06.08	Unlawful to Construct
10.06.10	Requirement to Connect to Public Sewer

10.06.02 Unlawful to Deposit

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 an area under the jurisdiction of said municipality, any human or animal excrement, garbage or other objectionable waste.

10.06.04 Unlawful to Discharge

It shall be unlawful to discharge to any natural outlet within the municipality or in any area under jurisdiction of the municipality, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with this article, or permitted by the DENR or EPA.

10.06.08 Unlawful to Construct

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. Cesspools are prohibited by the South Dakota Regulations 34:04:01:12.

10.06.10 Requirement to Connect to Public Sewer

The owner(s) of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the municipality 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 municipality, is hereby required at the owner(s) expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this ordinance, within sixty (60) days after date of official notice to do so, provided that said public sewer is within two hundred (200) feet of the property line and reasonably accessible as determined by the approving authority.

Chapter 10.08: Private Wastewater Disposal

Section	
10.08.02	Sewer Connections
10.08.04	Permit Required
10.08.06	Inspection and Approval
10.08.08	Private Wastewater System Compliance
10.08.10	Connection to Public System
10.08.12	Maintenance of Private System
10.08.14	Validity

10.08.02 Sewer Connections

Where a public sanitary or combined sewer is not available under the provisions of Chapter 10.06.10, the building's sewer shall be connected to a private wastewater disposal system complying with the provisions of this article and State of South Dakota Administrative Rules for individual and small wastewater systems (ARSD Chapter 74:53:01).

10.08.04 Permit Required

Before commencement of construction of a private wastewater disposal system, the owner(s) shall first apply for a building permit. The application for such permit shall be made on a form furnished by the municipality, which the applicant shall supplement plans and proof of a passable percolation test performed by a certified installer. Residential installations must be made by a contractor licensed and certified by the State of South Dakota Department of Natural Resources. A permit and inspection fee of One Hundred Dollars (\$100) shall be paid to the municipality at the time the application is filed. Commercial installations must be reviewed and approved by the DENR.

10.08.06 Inspection and Approval

A permit for a private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the Approving Authority. The Approving Authority shall be allowed to inspect the work at any state of construction, and in any event, the applicant for the permit shall notify the Approving Authority when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within twenty-four (24) hours of the receipt of notice by the Approving Authority.

10.08.08 Private Wastewater System Compliance

The type, capacities, location, and layout of a private wastewater disposal system shall comply with all recommendations of the state Department of Natural Resources. For persons with a public water supply, 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 one acre. For persons with a private well, no permit shall be issued for any private wastewater disposal system. No septic tank shall be permitted to discharge to any natural outlet.

10.08.10 Connection to Public System

At such time as a public sewer becomes available to a property served by a private wastewater disposal system, as provided in Chapter 10.06.10, a direct connection shall be made to the public sewer within ninety (90) days in compliance with this Ordinance, and any septic tanks and similar private wastewater disposal facilities shall be cleaned of sludge and fill with suitable material.

10.08.12 Maintenance of Private System

The owner(s) shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the municipality.

10.08.14 Validity

No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the health officer.

Chapter 10.10: Sanitary Sewers, Building Sewers, and Connections

Section	
10.10.02	Permit Required
10.10.04	Classes of Permits
10.10.06	City Exempted from Liability
10.10.08	Independent Building Sewers
10.10.10	Use of Old Building Sewers
10.10.12	Sewer Specifications
10.10.14	Discharge to Sewer
10.10.16	Connections to Remove Drainages
10.10.18	Sewer Connection Specifications
10.10.20	Inspection, Connection and Testing
10.10.22	Excavations and Restorations

10.10.02 Permit Required

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 Approving Authority.

10.10.04 Classes of Permits

There shall be two (2) classes of building permits:

- (a) for residential and commercial service,
- (b) 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 municipality. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Approving Authority. A permit and inspection fee of twenty-five (\$25) for residential or commercial building sewer permit, and fifty (\$50) for an industrial building sewer permit shall be paid to the municipality at the time the application is filed.

10.10.06 City Exempted from Liability

All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner(s). The owner(s) shall indemnify the municipality from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. The owner shall be responsible for all costs of maintenance of the

building drain and the building sewer.

10.10.08 Independent Building Sewers

A separate and independent four-inch diameter sewer service shall be provided for every living unit where a separate ownership or billing is anticipated, and in units where separate water services are required, and for every building; except where one building stands at the rear of another or 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. In lieu of a separate four-inch diameter sewer service for every living unit, a single building sewer of a size to be determined by the approving authority but in no event less than six-inches in diameter may be provided. The city does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection.

10.10.10 Use of Old Building Sewers

Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Approving Authority, to meet all requirements of this Ordinance.

10.10.12 Sewer Specifications

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 municipality. In the absence of suitable code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the South Dakota Plumbing Code and the Design Criteria for Sanitary Sewers as published by the SD Department of Water and Natural Resources.

10.10.14 Discharge to Sewer

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 such building drain shall be lifted by an approved means and discharged to the building sewer.

10.10.16 Connections to Remove Drainages

No person(s) shall make connection of roof downspouts, foundation drains, areaway drains, sump pumps or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to public sanitary sewer (unless such connection is approved by the Approving Authority for purposes of disposal of polluted surface drainage).

10.10.18 Sewer Connection Specifications

The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the municipality, or the procedures set forth in appropriate specifications of the South Dakota Plumbing Code and the Design Criteria for Sanitary Sewers as published by the SD Department of Water and Natural Resources. All such 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 Approving Authority before installation.

10.10.20 Inspection, Connection and Testing

The applicant for the building sewer permit shall notify the Approving Authority 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 Approving Authority or his representative.

10.10.22 Excavations and Restorations

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 municipality.

Chapter 10.12: Use of the Public Sewers

Section

10.12.02	Discharge of Storm Waters to Public Sewers
10.12.04	Discharge of Other Waters to Public Sewers
10.12.06	Illegal Discharges to Public Sewers
10.12.08	Limited Discharges to Public Sewers
10.12.10	Authority Controls over Hazardous Discharges
10.12.12	Interceptors Provided for Removal of Harmful Substances
10.12.14	Maintenance of Pretreatment Facilities
10.12.16	Required to Monitor Industrial Wastes
10.12.18	Required to Provide Compliance Information
10.12.20	Water Measurements, Tests and Analyses
10.12.22	Validity

10.12.02 Discharge of Storm Waters to Public Sewers

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 Approving Authority.

10.12.04 Discharge of Other Waters to Public Sewers

Storm water other than that exempted under Section 10.1202, and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Approving Authority and other regulatory agencies. Unpolluted industrial cooling water or process waters may be discharged, on approval of the Approving Authority and in accordance with provisions of the current State and Federal Regulation to a storm sewer, combined sewer, or natural outlet.

10.12.06 Illegal Discharges to Public Sewers

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

- (a) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.
- (b) Any waters containing toxic or poisonous solids, liquids or gases in sufficient

- quantity, either singly or by interaction with other gases, to contaminate the sludge of any municipal system, 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 or have an adverse effect on the waters receiving any discharge from the treatment works.
- (c) 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 wastewater works.
 - (d) Solid or viscous substances in quantities or of such 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, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
 - (e) Any wastewaters that would directly or indirectly result in a violation of the National Pollution Discharge Elimination System permit as issued to the municipality.
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10.12.08 Limited Discharges to Public Sewers

The following described substances, materials, waters, or wastes 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 Approving Authority may set limitations lower than the limitations established in the regulations below if in its opinion such more severe limitations are necessary to meet the above objectives. In forming this opinion as to the acceptability, the Approving Authority 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 process employed, capacity of 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 wastewaters discharged to the sanitary sewer which shall not be violated without approval of the Approving Authority are as follows:

- (a) Wastewater having a temperature higher than 150 degrees Fahrenheit (65 degrees Celsius).
- (b) Wastewater containing more than 25 milligrams per liter of petroleum oil, non-biodegradable cutting oils, or product of mineral oil origin.
- (c) Wastewater from industrial plants containing floatable oils, fat, or grease.

- (d) Any garbage that has not been properly shredded (see Section 10.0438). 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.
- (e) Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances to such a degree that any such material received in the composite wastewater at the wastewater treatment works exceed the limits established by the Approving Authority for such materials.
- (f) Any waters or wastes containing odor-producing substances exceeding limits which may be established by the Approving Authority.
- (g) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Approving Authority in compliance with applicable state or federal regulations.
- (h) Quantities of flow, concentrations, or both which constitute a “slug” as defined herein.
- (i) Waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed, or are amendable to treatment only to such degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
- (j) Any water 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.

10.12.10 Authority Controls over Hazardous Discharges

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 Section 10.1208, and which in the judgment of the Approving Authority may have a deleterious effect upon the wastewater facilities, process, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Approving Authority 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 provisions of Section 10.1220.

When considering the above alternatives, the Approving Authority may give consideration to the economic impact of each alternative on the discharger. If the Approving Authority 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 Approving Authority.

10.12.12 Interceptors Provided for Removal of Harmful Substances

Grease, oil and sand interceptors shall be provided when, in the opinion of the Approving Authority they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts as specified in Section 10.1208 (c), or any flammable wastes, sand, or other harmful ingredients; except that such interceptor shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Approving Authority 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 the captivated material and shall maintain records of the dates, and means of disposal which are subject to review by the Approving Authority. Any removal and hauling of the collected materials not performed by owner(s)' personnel must be performed by currently licensed waste disposal firms.

10.12.14 Maintenance of Pretreatment Facilities

Where pretreatment or flow-equalizing facilities are provided or required for any waters wastes, they shall be maintained continuously in satisfactory and effective operation by the owner(s) at his expense.

10.12.16 Required to Monitor Industrial Wastes

When required by the Approving Authority, the owner(s) of any property serviced by a building sewer carrying industrial wastes shall install a suitable structure together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of wastes. Such structures shall be constructed in accordance with plans approved by the approving Authority. The structure shall be installed by the owner at his expense, and shall be maintained by him so ass to be safe and accessible at all times.

10.12.18 Required to Provide Compliance Information

The Approving Authority may require a user of sewer services to provide information needed to determine compliance with this ordinance. These requirements may include:

- (a) Wastewaters discharge peak rate and volume over a specified time period.
 - (b) Chemical analyses of wastewater.
 - (c) Quantity and disposition of specific liquid, sludge, oil, solvent or to other materials important to sewer use control.
 - (d) Quantity and disposition of specific liquid, sludge, oil, solvent or to other materials important to sewer use control.
 - (e) A plot plan of sewers of the user's property showing sewer and pretreatment facility location.
 - (f) Details of wastewater pretreatment facilities.
 - (g) Details of systems to prevent and control the losses of materials through spills to the municipal sewer.
-

10.12.20 Water Measurements, Tests and Analyses

All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this ordinance 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, duration, and frequencies are to be determined on an individual basis subject to approval by the Approving Authority.

10.12.22 Validity

No statement contained in this Chapter shall be construed as preventing any special agreement or arrangement between the municipality and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the municipality for treatment.

Chapter 10.14: Violations

Section

10.14.02 Malicious, Willful or Negligent Activities

10.14.02 Malicious, Willful or Negligent Activities

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.

Chapter 10.16: Powers and Authority of Inspectors

Section

10.16.02	Authority of Municipal Employees
10.16.04	Information Released Concerning Industrial Discharges
10.16.06	Liabilities
10.16.08	Entry to Private Properties

10.16.02 Authority of Municipal Employees

The superintendent and other duly authorized employees of the municipality 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 the Ordinance.

10.16.04 Information Released Concerning Industrial Discharges

The superintendent 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 must establish that the revelation to the public of the information in question might result in an advantage to competitors.

10.16.06 Liabilities

While performing the necessary work on private properties referred to in Section 10.1602, above, the superintendent or duly authorized employees of the municipality 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 municipal employees, and the municipality shall indemnify the company against loss or damage to its property by municipal 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 Section 10.1216.

10.16.08 Entry to Private Properties

The superintendent and other duly authorized employees of the municipality bearing proper credentials and identification shall be permitted to enter all private properties through which the municipality 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 said easement pertaining to the private property involved.

Chapter 10.18: Hearing Board

Section

10.18.02 Appointment as Needed for Arbitration

10.18.04 Board Member Qualifications

10.18.02 Appointment as Needed for Arbitration

A Hearing Board shall be appointed as needed for arbitration of differences between the Approving authority and sewer users on matters concerning interpretation and execution of the provisions of this ordinance by the Approving Authority. The costs of the arbitration will be divided equally between the municipality and the sewer user.

10.18.04 Board Member Qualifications

One member of the Board shall be a registered professional engineer; one member shall be practicing sanitary engineer; one member shall be a representative of industry or manufacturing enterprise; one member shall be a lawyer; and one member shall be selected at large for his interest in accomplishing the objectives of this ordinance.

Chapter 10.20: Water Provisions

Section	
10.20.02	Water Meters
10.20.04	Inspection of Meters
10.20.06	Testing
10.20.08	Discontinue for Nonpayment
10.20.10	Voluntary Discontinuance of Service
10.20.12	Interruption of Service
10.20.14	Restricting Use
10.20.16	Payment

10.20.02 Water Meters

Water Meters shall be installed in all dwellings, residences, places of business, building or other premises or places comprising a single unit hereafter receiving water service from the City of Clark, or as otherwise authorized by the City Council. The City Utilities Department shall install, replace and repair residential water meters, defined as the standard 5/8 inch or 1/2 inch pipe size water meter or as approved by the City Council. A deposit of \$100.00 per meter shall be required. The deposit shall be used or refunded pursuant to policies established by the City Council.

A separate connection with the water mains and pipes of the city shall be made and a separate meter installed for each dwelling, residence, place of business, building, or other premise or place comprising a single unit hereafter receiving water service from the City of Clark, except that out buildings or other buildings appurtenant to, and used in connection with the dwelling house, residence, place of business, building or other premise or place for which connection is made may be serviced from a single connection and meter, provided that all buildings and premises serviced from a single connection and meter must be occupied by the same consumer. One meter shall be installed in apartment houses and for mobile home parks, and the owner thereof shall be liable for the charges. A separate connection and metering shall be required for a mobile home or trailer house when it is the sole dwelling unit located upon a lot.

No meter rent will be charged, but any meter becoming out of repair or destroyed by means of other than the usual and ordinary use thereof must be repaired or replaced at the expense of the owner of the premises.

10.20.04 Inspection of Meters

Any person authorized by the City Council to read water meters or make inspection shall be allowed free access at all reasonable hours to any building or premises where water is used. If such persons are not allowed such access, the City, in its discretion, may

estimate the water use, shut off the water, make additional charges or take other action not inconsistent with the law.

10.20.06 Testing

Any consumer of water within this City shall have the right upon the payment of fee set by the City Council to have his meter tested and he may be present at such test if he so desires.

If on inspection of any meter, it is found that said meter is within industrial acceptable limits of correct, the same may be approved and sealed.

10.20.08 Discontinue for Nonpayment

Failure to pay for water or sewer service by any consumer upon demand by the City shall be grounds for the immediate disconnection of the service. A reconnection charge shall be set by the City Council.

10.20.10 Voluntary discontinuance of Service

Persons wishing to discontinue the use of any water service shall give a five (5) day notice thereof to the Finance officer. Failure to do so shall render them liable for the payment of all bills until such notice has been given.

10.20.12 Interruption of Service

The users of any water service furnished by the City are hereby notified that the supply of such utility may be temporarily shut off at any time. Notice shall be given, if feasible, of the contemplated shutoff, but accidents may render this impossible; hence the City hereby warns those dependent upon the utility service for any purpose of this hazard.

Immediately upon finding the supply shut off it becomes the duty of the occupant of the premises to take prompt precautions to prevent damages.

10:20.14 Restricting Use

The City hereby reserves the right to at any time restrict or prevent the use of any water service furnished by the City during periods of emergency or circumstances demanding such restriction or prevention of use.

Water shall be used only for beneficial purposes and shall never be wasted. The right is reserved to suspend the use of sprinklers and hoses for watering lawns, yards and gardens whenever, in the opinion of the City Council, a public emergency exists.

10.20.16 Payment

All consumers of water within the City of Clark are required to read their own water meters on a monthly basis and provide the meter reading to the City Finance Office by no later than the last day of said month at 5:00 P.M. Failure by a consumer to provide the water meter reading to the City Finance Officer as herein provided shall result in a \$10.00 penalty fee being added to the consumer's account. In the event of a consumer's failure to provide the water meter reading to the City Finance Officer as herein provided, the consumer's water bill for said month will be computed based upon the consumer's monthly water usage for the preceding month.

Water bills shall be due and payable on the last day of the succeeding month for all water used during the preceding month. All water accounts shall be payable at the office of the City finance Officer and shall be deemed delinquent and a \$10.00 penalty shall be added to all accounts not paid in full by 5:00 P.M. on the due date. Unpaid penalties and fees are included in determining the balance which is due and owing on an unpaid account.

Written notice shall be given to all delinquent water customers and shall be mailed within fourteen (14) days following the due date to the delinquent customer's last known mailing address by first class mail. The notice of delinquency shall provide for a minimum of ten (10) days from the date of mailing as the last date by which payment must be made in order to avoid disconnection of the service. If the account remains unpaid on the disconnection date specified in the delinquency notice, the City Finance Officer shall issue a service disconnection order to the responsible city employee ordering immediate disconnection of the service.

A water service disconnected pursuant to the above provisions can be restored only by payment of the account in full, including any outstanding penalties, together with a disconnection fee of \$25.00 and a reconnection fee of \$25.00. Payment must be made to the City Finance Officer who shall issue a reconnection order ordering reconnection of the service at the earliest convenience of the responsible city employee.

The City of Clark shall not be required to furnish water service to any person when the applicant for such service is indebted to the City for water, sewer or garbage service at the same location or elsewhere and whether indebted or demanding such service individually, as a member of a partnership, or as an officer or manager of a statutorily created entity.

Any water service being furnished by the City may be discontinued at any time when any of the conditions set forth in this paragraph exists.

Chapter 10.22: General Provisions

Section

10.22.02	Utility Service - Application Required
10.22.04	Termination of Service
10.22.06	Service Taps – Extensions
10.22.08	Extension of Lines
10.22.10	Private Lines
10.22.12	Responsibility of Property Owners
10.22.14	Liability of City
10.22.16	Damage, Trespass of Equipment
10.22.18	Unlawful Use

10.22.02 Utility Service – Application Required

Any person desiring any utility service furnished by the City, including water or sewer service, shall make application for the same to the City Council. A fee of \$1.00 shall accompany each application. Such application shall contain the applicant's name, address and the uses for which such service is desired and the name and address of the person or persons who shall be doing the digging on City property, if any. A separate application shall be made for each premise to be served. The applicant shall abide by the rules and regulations established by the City relative to utility service in effect at the time of such application and as they may be revised from time to time in addition to conditions and agreements as the Council shall deem advisable.

10.22.04 Termination of Service

The City shall have the right to disconnect or refuse to connect any municipal utility service for the following reasons:

1. Failure to meet the applicable provisions of law.
 2. Vacancy of premises
-

10.22.06 Service Taps – Extensions

Tapping of any water or sewer main for the purpose of making connection shall be done only by authorized personnel of the City. Distribution or collection mains shall be provided at the discretion of the City Council, in streets, avenues or alleys abutting the property served. Water facilities for hookups shall be provided, unless otherwise specified by the City Council, to the curb line from the distribution or collection main. Extensions of distribution or collection mains shall be only as specified by the Council in

its discretion.

Any property owner may petition for a new hookup or connection to any City water and sewer line. The City Council, in its discretion, may allow such connection or hookup provided that the petitioning property owner pays the costs for said hookup or connection from the point it joins the City distribution or collection main for the total frontage to the petitioning property owners' lot line.

10.22.08 Extension of Lines

The City may serve water or sewer customers outside the municipal corporate limits solely at the discretion of the City Council. Said water and sewer lines shall be constructed and maintained by the customer, with all parties connecting onto such lines being regulated and charged connection fees and other fees as set forth and regulated by the City.

10.22.10 Private Lines

Private water or sewer mains shall not be installed in the City unless authorized by the City Council. For the purpose of this section, the phrase "private water and sewer mains" shall be construed to include any rural water pipelines, pipes or waterlines.

10.22.12 Responsibility of Property Owners

Persons served by city water and sewer shall keep all piping, fixtures, stop valves, heaters and other apparatus for use of water or sewer (including meters) in good repair and protected from freezing. The property owner shall be responsible for and pay the charges for replacement of any corroded or damaged piping, fixtures, stop valves, heaters or other apparatus for the use of water or sewer, and for any charges for the repair or replacement of water meters, occasioned by the negligence of the property owner or user, or the freezing, overheating or other external damage to any water meters. The property owner and/or water user shall place and maintain a brass stop inside the basement of any building where water is to be used at the lowest point practicable on the service pipe entering the building and as close as practicable to the wall through which the pipe enters and easily accessible so that the water may be turned on or off by the user or occupant. Service connection repairs to the curb stop shall be responsibility of the property owner.

Owners, lessees and occupants of private property served by city water shall be jointly and severally liable to the City of Clark for payment of water bills, penalties and fees assessed in connection with water service provided to said premises, which the City may recover in an action against such owner, lessee or occupant or against any or all of them.

10.22.14 Liability of City

The City shall not be liable for any damage to the property of any customer of any water and sewer service furnished by the City due to backflow of the sewage system, failure of water supply, information of service or any cause outside the direct control of the City.

10.22.16 Damage, Trespass of Equipment

It shall be unlawful for any person, not having authority to do so, to open any water hydrant or tamper with any water and sewer service furnished by the City to consumers, or to in any other way molest, damage or trespass upon any equipment or premises belonging to the City connected with any such service.

10.22.18 Unlawful Use

No person, other than employees of the City, shall be authorized to connect, turn on, turn off or disconnect any water and sewer service offered by the City, or remove, replace or repair any equipment connected to any such service.

10.22.20 Rural Hookups

No City water and sewer services shall be provided to persons or places not within the City limits of the City of Clark, except those hookups in existence at the date of the adoption of this Section.

Chapter 10.24: Rates

Section	
10.24.02	Water Rate – City
10.24.04	Sewer Rate – City
10.24.06	Water and Sewer Rates – Rural

10.24.02 Water Rate – City

Properties where Municipal Water Supply is Turned on at Curb Stop:

A base rate fee of \$13.00 per month; plus

\$4.50 per every 1000 gallons

The base rate fee shall be implemented on each housing unit and each apartment unit.

Properties where Municipal Water supply is Shut Off at Curb Stop:

There shall be a minimum line service of \$13.00 charged to each dwelling house, residence, business, or other place for which sewer and water is maintained. This line service fee shall be charged irrespective of vacancy or abandonment of property and irrespective of the fact that the municipal water supply has been shut off at the curb stop for such property. This fee is applicable to seasonal residents. There shall be no line service fee for any vacant lot where no building is situated on the property.

10.24.04 Sewer Rate – City

Properties where Municipal Water is turned on at the Curb Stop:

A debt service surcharge of \$12.00 per month **of which \$0.33 is designated for the repayment of Consolidated Water Facilities Loan 2012L-206**; plus,

The minimum base sewer fee for the users within the city limits shall be \$14.00 per month for the first 8,000 gallons of wastewater discharged per month. All additional gallons in excess of 8,000 gallons shall be charged at the rate of \$1.50 per 1,000 gallons.

The debt service surcharge shall be implemented on each housing unit and each apartment unit.

Properties where Municipal Water Supply is Shut Off at the Curb Stop:

There shall be a minimum debt service surcharge of \$12.00 per month **of which \$0.33 is**

designated for the repayment of Consolidated Water Facilities Loan 2012L-206 charged to each dwelling house, residence, business, building or other place for which sewer is maintained. This debt service fee shall be charged irrespective of vacancy or abandonment of the property and irrespective of the fact that the municipal water supply has been shut off at the curb stop for such property. This fee is applicable to seasonal residents. There shall be no line service fees for any vacant lot where no building is situated on the property.

10.24.06 Water and Sewer Rates – Rural

All water and sewer services located outside the City limits shall be charged triple the minimum rate as set out in Sections 10.24.02 and 10.24.04 of this ordinance.

Chapter 10.99: Penalties

Section	
10.99.02	Notice of Violations
10.99.04	Continuing Violations
10.99.06	Liability of Offenders

10.99.02 Notice of Violations

Any person found to be violating any provision of this ordinance except Chapter 10.1402 shall be served by the City of Clark with written notice stating the nature of the violation and providing a reasonable length of time, not to exceed ten (10) days, for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

10.99.04 Continuing Violations

Any person who shall continue any violation of this ordinance except for chapter 10.1402, beyond the time limit provided for in Section 10.9902, shall be guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine not to exceed Two Hundred (\$200.00) Dollars, or imprisonment not to exceed thirty (30) days, or both such fine and imprisonment . Each day or portion thereof during which a violation of this ordinance shall continue shall be deemed a separate offense.

10.99.06 Liability of Offenders

Any person violating any of the provisions of this Ordinance shall become liable to the city of Clark for any expense, loss or damage occasioned to the city of Clark by reason of such violation.

Title 11 - Zoning

Article I: General Provisions

Chapter

- 11.01 Title and Application
- 11.02 Ordinance Provisions
- 11.03 Official Zoning Map

Article II: District Regulations

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- 11.05 Non-Conforming Uses
- 11.06 District Regulations
- 11.07 “A” - Agricultural District
- 11.08 “R1” - Single Family Residential District
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Article III: Administration

- 11.14 General
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Article IV: Supplemental Regulations

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Article V: Definitions

- 11.33 General Terms

Article I - General Provisions

Chapter 11.01: Title and Application

Section

11.01.01	Title
11.01.02	Jurisdiction
11.01.03	Purpose and Intent

11.01.01 Title

This ordinance shall be known and referred to as “The Zoning Ordinance of the city of Clark, South Dakota.”

11.01.02 Jurisdiction

The provisions of this ordinance shall apply to all territory within the boundaries of the City of Clark, South Dakota, as established on the Official Zoning Map of the City of Clark.

11.01.03 Purpose and Intent

This zoning ordinance is enacted for the purpose set forth and provided for in South Dakota Compiled Laws and Amendments, Chapters 11-4 and 11-6, that is, among other things to promote the health, safety, peace, comfort, convenience, prosperity, morals, and general welfare of the community.

This ordinance has been prepared in accordance with the Comprehensive Land Use Plan for the Town and is designed to coordinate physical development of the community with needs for public services and facilities. More specifically, the Zoning Ordinance is adopted in order to achieve the following objectives:

- a. To foster a harmonious, convenient, workable relationship among land uses.
- b. To promote the stability of existing land uses that conform with the Land Use Plan and to protect them from the inharmonious influences and harmful intrusions.
- c. To insure that public and private lands ultimately are used for the purposes which are most appropriate and most beneficial from the standpoint of the City as a whole.
- d. To prevent excessive population densities and overcrowding of the land with structures.
- e. To place the power and responsibility of the use of land in the hands of the property owner contingent upon the compatibility of surrounding uses and the

- comprehensive land use plan.
- f. To facilitate the appropriate location of community facilities and institutions.
- g. To protect and enhance real estate values.
- h. To safeguard and enhance the appearance of the City, including natural amenities.

Chapter 11.02: Ordinance Provisions

Section

11.02.01	Provisions of Ordinance Declared to Be Minimum Requirements
11.02.02	Violations/Penalties for Violations
11.02.03	Separability Clause
11.02.04	Repeal of Conflicting Ordinances
11.02.05	Effective Date

11.02.01 Provisions of Ordinance Declared to Be Minimum Requirements

Wherever the requirements of this ordinance are at variance with the requirements of any other lawfully adopted rules, ordinances, deed restrictions, or covenants; the most restrictive or that imposing the higher standards shall govern.

11.02.02 Violations/Penalties for Violation

Violations of the ordinance shall be treated in the manner specified below.

- a. Any person who starts work for which a permit (building, conditional use, variance, rezoning) is required by this zoning ordinance, without first securing such permit and paying the prescribed fee, shall be charged according to the provisions of this section. All administrative fees assessed there under shall be rounded to the nearest whole dollar.
 - i. Upon finding such violation, the Administrative Official shall notify the owner of property involved verbally or by sending a written notification of the requirement that a permit be obtained to the owner of the property involved by certified mail with return receipt requested. If application for said permit is filed within seven (7) working days from the verbal notification or date of receipt of the letter, an administrative fee shall be assessed in the amount of one hundred percent (100%) of the fee for the building permit plus the cost of the postage for mailing the aforementioned notice. In no case shall this administrative fee be less than five dollars (\$5.00), including the postage costs.
 - ii. If application for said permit is filed after the deadline of seven (7) working days following the verbal notice or receipt of the notification of the requirement therefore, there shall be imposed an administrative fee in the amount of two (2) times the normal fee for the associated building permit, conditional use permit, variance, and/or rezoning plus the cost of the postage for mailing the aforementioned notice. The payment of the administrative fee shall not relieve such person from the provisions of paragraph (b) below.

- iii. Any administrative fee or penalty imposed under the provisions of this zoning ordinance shall be in addition to any other fees or charges required under this zoning ordinance.
- b. It is declared unlawful for the owner or agent of a building or premises in or upon which a violation of any provision of these regulations has been committed or shall exist, or the lessee or tenant of an entire building or entire premises in or upon which violation has been committed or shall exist, or the agent, architect, building contractor or any other person who commits, takes part or assists in any violation or who maintains any building or premises in or upon which such violation shall exist to violate any of the terms and provisions of these regulations or other official control adopted by the City Council pursuant thereto. Any person who violates, disobeys, omits, neglects or refuses to comply with or resists the enforcement of any provision of this zoning ordinance may be subject to a civil or criminal penalty. The penalty for violation of this zoning ordinance shall be five hundred dollars (\$500.00) or imprisonment for not more than thirty (30) days, or both, and in addition the violator shall pay all costs and expenses involved in the case. Each and every day that such violation continues after notification may constitute a separate offense. All fines for violation shall be paid to the Finance Officer and shall be credited to the General Fund of the Town.
- c. In the event any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or any building or structure or land is used in violation of this ordinance or other regulation, the Administrative Official, or the City of Clark, as a corporation or any interested person, in addition to other remedies, may institute injunction, mandamus or any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use of land, to restrain, correct or abate such violation, to prevent the occupancy of said building or land or to prevent any illegal act, conduct, business, or use in and to and of such premises.
- d. Any taxpayer of the Town may institute mandamus proceedings in Circuit Court to compel specific performance by the proper official or officials of any duty required by these regulations.

11.02.03 Separability Clause

Should any article, chapter, section or provision of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any part other than the part so declared to be unconstitutional or invalid.

11.02.04 Repeal of Conflicting Ordinances

All ordinances or part of ordinances in conflict with this Ordinance or inconsistent with the provisions of this Ordinance, are hereby repealed entirely.

11.02.05 Effective Date

These regulations shall be in full force and effect from and after their passage, approval, publication, and effective date of the Zoning Ordinance of the City of Clark, South Dakota, as provided for by South Dakota law.

Chapter 11.03: Official Zoning Map

Section

11.03.01	Official Zoning Map
11.03.02	Rules Where Map Designation Uncertain
11.03.03	Annexation
11.03.04	Changes and/or Replacement of Official Zoning Map

11.03.01 Official Zoning Map

The City is hereby divided into zones, or districts, as shown on the Official Zoning Map which, together with all explanatory matter therein, is hereby adopted by reference and declared to be a part of this Ordinance.

The Official Zoning Map shall be identified by the signature of the Mayor of the City attested by the City Finance Officer under the following words: “This is to certify that this is the Official Zoning Map referred to in Chapter 11.03 of Ordinance Number 400 of the City of Clark, State of South Dakota,” together with the date of the adoption of this Ordinance. The Official Zoning Map shall be on file at the office of the City Finance Officer.

If, in accordance with the provisions of this Ordinance and S.D.C.L. Chapter 11-4, as amended, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall not become effective until after said changes have been made on the Official Zoning Map by the City Finance Officer or in his/her absence a person designated by the City Council. Any unauthorized change by any person or persons shall be considered a violation of this Ordinance and punishable as provided under Chapter 11.02. Section 11.02.02.

Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map, which shall be located in the City Offices, shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the City.

11.03.02 Rules Where Map Designation Uncertain.

Where uncertainty exists with respect to the various zoning districts as shown on the Official Zoning Map, the following rules shall apply:

- a. The district boundaries are streets or alleys, highways, rights-of-way, railroad rights-of-way, waterways, lot lines, property lines, quarter section lines, half section lines, or full section lines, unless otherwise shown.
- b. Where the designation on the Official Zoning Map indicates the various districts are

approximately bounded by lot lines, the lot lines shall be the boundaries of such districts unless boundaries are otherwise indicated on the map.

- c. In unsubdivided property, the zoning district boundary line on the Official Zoning Map may be determined by use of the scale contained on the map.

11.03.03 Annexation

Subsequent of the effective date of these regulations, any land annexed into the municipal boundaries of the City of Clark shall be automatically placed into the “A” Agricultural zoning district, unless and until such time as the area is rezoned by amendment of these regulations by ordinance, as provided for in Section 11.17.06 of these regulations.

11.03.04 Changes and/or Replacement of Official Zoning Map

In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the City council may by ordinance adopt a new Official zoning Map, which shall supersede the prior Official Zoning Map. The new Official Zoning Map shall be identified by the signature of the Mayor attested by the City Finance Officer, and bearing the seal of the City under the following words: “This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of map being replaced) as part of the Zoning Ordinance of the City of Clark, State of South Dakota.”

Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved together with all available records pertaining to its adoption or amendment.

Article II - District Regulations

Chapter 11.04: Application of District Regulations

Section

11.04.01	Applicability of Regulations
11.04.02	Compliance; Generally
11.04.03	Structures & Lots; Construction or Alteration; Limitations of

11.04.01 Applicability of Regulations

The regulations set forth by this ordinance within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure of land, except as hereinafter provided.

11.04.02 Compliance; Generally

No building, or any part thereof shall hereafter be used or occupied, and no building or any part thereof shall be erected, constructed, reconstructed, converted, altered, enlarged, extended, raised, moved or used, and no premises shall be used for any purpose other than a purpose permitted in the Zoning District in which said building or premise is located, except as hereinafter provided.

11.04.03 Structures & Lots; Construction or Alteration; Limitations of

No building or other structure shall hereafter be erected or altered:

- a. To exceed the height or bulk;
- b. To accommodate or house a greater number of families;
- c. To occupy a greater percentage of lot area;
- d. To have narrower or smaller rear yards, front yards, side yards, or other open spaces than herein required; or in any other manner contrary to the provisions of this ordinance.
- e. No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or are below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

Chapter 11.05: Non-Conforming Uses

Section

11.05.01	Intent
11.05.02	Repairs and Maintenance
11.05.03	Uses and Structures
11.05.04	Uses Under Conditional Use Provisions Not Non-Conforming Uses
11.05.05	Non-Conforming Lots of Record

11.05.01 Intent

Within the districts established by this Ordinance or amendments that may later be adopted there exist lots, structures, uses of land and structures, and characteristics of use which were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendment. It is the intent of this Ordinance to permit these non-conformities to continue until they are removed, but not to encourage their survival. It is further the intent of this Ordinance that non-conformities shall not be enlarged upon, expanded or extended, not be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

Non-conforming uses are declared by this Ordinance to be incompatible with permitted uses in the districts involved. A non-conforming use of a structure, a non-conforming use of land or a non-conforming use of structure and land in combination shall not be enlarged upon, extended or expanded, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

To avoid undue hardship, nothing in this ordinance shall be deemed to require a change in the plans, construction, or designation use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this ordinance.

And upon which construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

11.05.02 Repairs and Maintenance

On any non-conforming structure or portion of a structure containing a non-conforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement on non-bearing walls, fixtures, wiring, or plumbing to an extent not exceeding ten (10) percent of the current replacement cost of the non-conforming structure or non-conforming portion of the structure as the case may be, provided that the

cubic content existing when it became non-conforming shall not be increased.

If a non-conforming structure or portion of a structure containing a non-conforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located.

11.05.03 Uses and Structures

A lawful use or structure at the time this ordinance is adopted or amended may continue even though such use does not conform to the district regulations subject to the following provisions:

1. Whenever a nonconforming use or structure has been changed to a conforming use, it shall not be changed back to a nonconforming use.
2. If any nonconforming building is destroyed or damaged by any casualty, such building may be repaired or replaced and use continued providing said reconstruction shall not add to the non-conformity or add to the cubic contents of said building as the same existed at the time of such casualty; and provided further that such repair or reconstruction of such building shall begin within six (6) months after such casualty and completed within a reasonable time thereafter. However, if the damage caused by such casualty is such as to cause a loss in value exceeding fifty (50) percent of the replacement value immediately prior to such casualty then it cannot be rebuilt for a non-conforming use. The loss in value shall be computed as the difference between the actual cash value of the structure immediately before and after the casualty. Cash value shall be the same as that used for insurance purposes as approved by the State of South Dakota Insurance Code.
3. When a nonconforming use or structure is discontinued for a period of 1 year, it shall not be continued unless in conformance with the requirements of this ordinance and SDCL 11-6.39.
4. Any nonconforming use may be extended throughout any part of a structure, which was arranged or designed for such use previous to the adoption of this ordinance, but shall not be extended outside each structure.
5. No existing nonconforming use or structure shall be enlarged, moved, or structurally altered except to change to a permitted use. This is not to include normal repairs and maintenance, which do not enlarge, move or structurally alter a nonconforming use.
6. Type I and Type II Manufactured Homes located upon any lot or lots or record at the time of the adoption of this Ordinance may be replaced by Type I and/or Type

- II Manufactured Homes of like dimensions and said replacement shall not be deemed to have changed the use thereof from a nonconforming to a conforming use. If a replacement Type I or Type II Manufactured Home is or larger dimension than the replacements Type I and/or Type II Manufactured Home, then application must first be made to the City Board of Adjustment for a conditional use Permit.
7. Nothing contained in this section shall be so construed as to abridge or curtail the powers of the City Planning and Zoning Commission as set forth elsewhere in this Ordinance.
-

11.05.04 Uses Under Conditional Use Provisions Not Non-Conforming Uses

Any use which is permitted as a conditional use in a district under the terms of this Ordinance (other than a change through Board of Adjustment action from a nonconforming use to another use not generally permitted in the district) shall not be deemed a non-conforming use in such district, but shall without further action be considered a conforming use.

11.05.05 Non-Conforming Lots of Record

In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record after the effective date of adoption or amendment of this ordinance, notwithstanding limitations imposed by other provisions of this ordinance. Such lots must be in separate ownership and not of continuous with other lots in the same ownership. This provision shall apply even though such a lot fails to meet the requirements of area of width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than these applying to area or width, or both, of the lot shall conform to the regulations of the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the Board of Adjustment.

If two (2) or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this ordinance, and all or part of the lots do not meet the requirements established for lot width and area, the land involved shall be considered to be an undivided parcel for the purposes of this ordinance, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this ordinance, nor shall any division of any parcel be made which creates a lot with width or area below the requirements in this ordinance.

Chapter 11.06: District Regulations

Section	
11.06.01	Generally
11.06.02	Zoning Districts

11.06.01 Generally

The district regulations included in this Chapter may be qualified or supplemented by additional regulations appearing elsewhere in this ordinance.

Any use or uses not expressly permitted in a particular district shall be prohibited, unless such uses are existing at the effective date of these regulations and qualify as nonconforming uses, or unless a Conditional Use Permit is granted as provided for in Section 11.17.02 of these regulations.

Deviation from zoning district lot, yard and related requirements, and deviation from city-wide zoning regulations, shall be prohibited, unless a Variance is granted as provided for in Chapter 11.17, Section 11.17.02 of these regulations.

Additional requirements and standards for uses and structures permitted by Conditional Use Permit as conditions to said Conditional Use Permit.

11.06.02 Zoning Districts

The following zone and use districts are hereby established for the purposes of administration and enforcement of this ordinance.

- “A” Agricultural District
- “C1” Central Commercial District
- “HC” Highway Commercial District
- “I” Industrial District
- “R1” Single Family Residential District
- “R2” General Residential District
- “R3” Residential Manufactured Home District

Chapter 11.07: “A” Agricultural District

Section

11.07.01	Intent
11.07.02	Permitted Uses
11.07.03	Permitted Accessory Uses
11.07.04	Conditional Uses
11.07.05	Prohibited Uses
11.07.06	Area Regulations

11.07.01 Intent

The intent of the “A” Agricultural District is to protect agricultural land and uses from incompatible land uses and to prevent premature urban development of certain lands which eventually may be appropriate for urban uses, until the installation of drainage works, streets, utilities and community facilities and until objective projections of appropriate land uses are possible.

11.07.02 Permitted Uses

The following uses and structures shall be permitted in the “A” Agricultural District:

1. Any form of agricultural activity and related farm buildings, but excluding feed lots;
 2. Site-built single family dwelling;
 3. Modular homes;
 4. Type I manufactured homes;
 5. Orchards and tree farms;
 6. Public parks and recreation areas.
 7. On-premise sign.
-

11.07.03 Permitted Accessory Uses

The following accessory uses and structures shall be permitted in the “A” Agricultural District:

1. Accessory uses and structures customary incidental to permitted uses and structures when established within the space limits of this district.
 2. Roadside stands for sales of agricultural products grown or produced on the premises.
-

11.07.04 Conditional Uses

The following uses may be permitted as a Conditional Use in the “A” Agricultural District by the Board of Adjustment subject to such requirements as the Board deems necessary to protect adjacent property, prevent objectionable or offensive conditions and promote the health, safety, and general welfare.

1. Airports;
2. Commercial or private recreation areas not normally accommodated in commercial areas such as golf courses, campgrounds, drive in theatres, riding stables, race tracks, swimming pools, etc.;
3. Private clubs;
4. Stables and kennels with outside runs;
5. Type II Manufactured home;
6. Public buildings or facilities erected or established and operated by any governmental agency;
7. Radio and television towers and transmitters;
8. Home occupations;
9. Nurseries and greenhouses;
10. Veterinary clinics with outside runs;
11. Churches and/or cemeteries;
12. Horticulture services;
13. Railroad and public utilities facilities.

11.07.05 Prohibited Uses

All uses and structures not specifically permitted or not permitted by conditional use shall be prohibited in the “A” Agricultural District.

11.07.06 Area Regulations

1. **Minimum Lot Requirements** – The minimum lot area for permitted uses shall be one (1) acre of 43,560 square feet. The minimum lot width for permitted uses shall be one hundred fifty (150) feet. Uses permitted by conditional use shall have a minimum lot area and width as determined by the Board of Adjustment.
2. **Minimum Yard Requirements** – Permitted uses shall have a minimum front yard of seventy-five (75) feet, minimum side yards of thirty (30) feet, and a minimum rear yard of fifty (50) feet. Uses permitted by conditional use shall have minimum yard requirements as determined by the Board of Adjustment.
3. **Height Regulations:**

Single Family Dwellings – Two and one – half (2 ½) stores, excluding basement, or thirty-five (35) feet.

Other Allowable Uses – Seventy five (75) feet for towers or steeples and not more than forty-five (45) feet or the principle building.

Chapter 11.08: “R1” Single Family Residential District

Section

11.08.01	Intent
11.08.02	Permitted Uses
11.08.03	Permitted Accessory Uses
11.08.04	Conditional Uses
11.08.05	Prohibited Uses
11.08.06	Area Regulations

11.08.01 Intent

The intent of the “R1” Single Family Residential District is to provide locations for low-density site-built, single-family residential dwellings. Restrictions and requirements are intended to preserve and protect the residential character by preventing incompatible land uses.

11.08.02 Permitted Uses

The following uses and structures shall be permitted in the “R1” Single Family Residential District

1. Site-built single-family dwellings;
 2. Modular homes;
 3. Public park and recreation areas **(not including campgrounds)**.
-

11.08.03 Permitted Accessory Uses

The following accessory uses and structures shall be permitted in the “R1” Single Family Residential District:

- Accessory uses and structures customarily incidental to permitted uses, except stables.
-

11.08.04 Conditional Uses

The following uses may be permitted as a conditional use in the “R1” Single Family Residential District by the Board of Adjustment, subject to such requirements as Board deems necessary to protect adjacent property, prevent objectionable or offensive

conditions and promote the health, safety and general welfare.

1. Bed and breakfast establishments;
2. Two-family dwellings;
3. Public and private schools;
4. Home occupations;
5. Hospitals, nursing homes, and homes for the aged. Any building approved for such use shall be set back not less than fifty (50) feet from the street on which it fronts and shall have side and rear setbacks of not less than thirty (30) feet and shall meet other requirements of this Ordinance;
6. Commercial storage buildings used exclusively for storage and not for performance of any other services;
7. Kennels;
8. Registered or licensed day care homes caring for children, provided that such facilities shall provide not less than twenty-five (25) square feet of floor area not including halls or bathrooms and adequate outdoor recreation space for each child. In addition, such facilities shall supply adequate off-street parking or other suitable plan for the loading and unloading of children so as not to obstruct public streets or create other traffic or safety hazards;
9. In-home nursing or convalescent homes with up to four (4) additional residents other than immediate family’
10. Churches, public libraries, museums, and schools;
11. Public utilities and governmental buildings, including substations, regulator substations, pumping stations, radio and television transmitter or tower, transmission lines, water filtration plant and storage reservoir, or other similar public service uses;
12. Off-street parking permitted in the District, provided that adequate screening is present and that a site plan is approved for any permanent improvements;
13. Licensed day care centers in conjunction with churches;
14. Clubs, lodges and community centers;
15. Clinics;

16. Mortuaries.
-

11.08.05 Prohibited Uses

All uses and structures not specifically permitted or not permitted by conditional use shall be prohibited in the “R1” Single Family Residential District.

11.08.06 Area Regulations

1. **Minimum Lot Requirements** – The minimum lot area of residences shall be nine thousand seven hundred fifty (9,750) square feet. The minimum lot width for residences shall be seventy-five (75) feet. The minimum lot depth for residences shall be one hundred thirty (130) feet. Other permitted uses and uses permitted by conditional use shall have a minimum lot area, width, and depth as determined by the Board of Adjustment. All lots shall front on and have ingress and egress by means of a public right-of-way.
2. **Maximum Lot Coverage** – The maximum lot coverage for all buildings and structures shall not exceed thirty percent (30%) of the total lot area.
3. **Minimum Yard Requirements** – Residential dwellings shall have a minimum **front yard of thirty (30) feet**, measuring the same from the outward point of the building. For the purpose of this ordinance a porch and overhand shall be deemed to be part of said building except as provided for by Article V, Definitions “Yard, Front”. In the case of corner lots, both frontage yards shall be provided according to the required depth for front yards in that district or according to the prevailing yard pattern of existing structures. Residential dwellings shall have a **minimum side yards of nine (9) feet, and a minimum rear yard of twenty-five (25) feet**. However, accessory structures may be placed within five (5) feet of an alley. Other permitted uses and uses permitted by conditional use shall have minimum yard requirements as determined by the Board of Adjustment.
4. **Height Regulations:**

Single Family Dwellings – Two and one-half (2 ½) stories, excluding basement, or thirty-five (35) feet.

Other Allowable Uses – Seventy-five (75) feet for towers or steeples and not more than forty-five (45) feet for the principle building.

Chapter 11.09: “R2” General Residential District

Section	
11.09.01	Intent
11.09.02	Permitted Uses
11.09.03	Permitted Accessory Uses
11.09.04	Conditional Uses
11.09.05	Prohibited Uses
11.09.06	Area Regulations

11.09.01 Intent

The intent of the “R2” General Residential District is to provide a stable environment for the development of single-family, two-family and multiple-family dwelling units free from incompatible land uses.

11.09.02 Permitted Uses

The following uses and structures shall be permitted in the “R2” General Residential District:

1. Any permitted use in the “R1” District;
 2. Two-family dwellings;
 3. Multiple-family dwellings.
-

11.09.03 Permitted Accessory Uses

1. Accessory uses and structures customarily incidental to permitted uses.
-

11.09.04 Conditional Uses

The following uses may be permitted as a conditional uses in the “R2” General Residential District by the Board of Adjustment, subject to such requirements as the Board deems necessary to protect adjacent property, prevent objectionable or offensive conditions and promote the health, safety and general welfare.

1. Any conditional use permitted in the “R1” District; except two-family dwellings which is a permitted use in this district;
2. Type 1 manufactured homes;

3. Campgrounds;
4. Private storage structure subject to the following conditions:
 - a. Maximum dimensions shall be limited to thirty (30) feet by **thirty-six (36)** feet;
 - b. Maximum sidewalls shall be limited to fourteen (14) feet; and a maximum of 4/12 roof pitch.
 - c. Private structures shall have siding material of a type customarily used on site-constructed residences. Exception: steel panel siding, not corrugated galvanized steel) **may be used only if approved by one hundred percent (100%) of adjacent property owners.**

11.09.05 Prohibited Uses

All uses and structures not specifically permitted or not permitted by conditional use shall be prohibited in the “R2” General Residential District.

11.09.06 Area Regulations

1. **Minimum Lot Requirements** – The minimum lot area for residences shall be six thousand five hundred (6,500) square feet. The minimum lot width for residences shall be fifty (50) feet. The minimum lot depth width for residences shall be one hundred thirty (130) feet. The minimum lot area for two-family and multiple family dwellings, shall not be less than twenty-five thousand (2,500) square feet per dwelling unit. Other permitted uses and uses permitted by conditional use shall have a minimum lot area, width, and depth as determined by the Board of Adjustment. All lots shall front on and have ingress and egress by means of a public right-of-way.
2. **Maximum Lot Coverage** – The maximum lot coverage for all buildings and structures shall not exceed thirty percent (30%) of the total lot area.
3. **Minimum Yard Requirements** – Residential dwellings shall have a **minimum front yard of twenty-five (25) feet**, measuring the same from the most outward point of the building. For the purpose of this ordinance a porch and overhang shall be deemed to be part of said building except as provided for by Article V. Definitions “Yard, Front”. In the case of corner lots, both frontage yards shall be provided according to the required depth for front yards in that district or according to the prevailing yard pattern of existing structures Residential dwellings shall have **minimum side yards of six (6) feet, and a minimum rear yard of twenty-five (25) feet**. However, accessory structures may be placed within five (5) feet of an alley. Other permitted uses and uses permitted by conditional use shall have minimum yard requirements as determined by the

Board of Adjustment. Uses permitted by conditional use shall have minimum yard requirements as determined by the Board of Adjustment.

4. **Height Regulations:**

Single Family Dwellings – Two and one-half (2 ½) stories, excluding basement, or thirty-five (35) feet.

Other Allowable Uses – Seventy-five (75) feet for towers or steeples and not more than forty-five (45) feet for the principle building.

Chapter 11.10: “R3” Residential Manufactured Home District

Section

11.10.01	Intent
11.10.02	Permitted Uses
11.10.03	Permitted Accessory Uses
11.10.04	Conditional Uses
11.10.05	Prohibited Uses
11.10.06	Area Regulations
11.10.07	Manufactured Home Park Minimum Standards
11.10.08	Application Procedures
11.10.09	Manufactured Housing Subdivisions

11.10.01 Intent

The intent of the “R3” Residential Manufactured Home District is to permit a broad variety of housing types with an emphasis of the development of a single-family residential manufactured home park located in an appropriate environment. It is the intent of the “R3” District to encourage site development in accordance with good planning principles; to prevent detrimental effects to the use of development of adjacent properties or the general neighborhood.

11.10.02 Permitted Uses

The following uses and structures shall be permitted:

1. Any permitted use in the “R2” District;
 2. Type I manufactured home;
 3. Type I manufactured home without permanent foundation;
 4. Type II manufactured home;
 5. Type II manufactured home with permanent foundation
-

11.10.03 Permitted Accessory Uses

1. Accessory buildings and uses customarily incident thereto, excluding stables.
2. No part of any manufactured home park shall be used for nonresidential purposes, except such uses that are required for the direct servicing and well being of park residents and for the management and maintenance of the park.

11.10.04 Conditional Uses

The following uses may be permitted as a conditional use in the “R3” Combined Residential District by the Board of Adjustment, subject to such requirements as the Board seems necessary to protect adjacent property, prevent objectionable or offensive conditions and promote the health, safety and general welfare.

1. Any conditional use permitted in the “R2” District; except two-family dwellings, multiple family dwellings, Type I manufactured homes and Type II manufactured homes with a permanent foundation which are a permitted uses in this district;
 2. Manufactured home park developments;
 3. Manufactured home subdivisions;
-

11.10.05 Prohibited Uses

All uses and structures not specifically permitted or not permitted by conditional use shall be prohibited in the “R3” Residential District.

11.10.06 Area Regulations

1. **Minimum Lot Requirements:** The minimum lot area for single-family residences shall be six thousand two hundred and fifty (6,250) square feet. The minimum lot width for residences shall be fifty (50) feet. The minimum lot depth for residences shall be one hundred fifty (125) feet. Multiple-family dwelling units up to four units shall have a minimum lot area of six thousand (6,000) square feet for the first dwelling unit plus two thousand four hundred (2,400) square feet for each additional dwelling unit. Multiple-family apartments, condominiums and townhouses for single-family occupancy of more than four dwelling units shall have a minimum lot area of thirteen thousand two hundred (13,200) square feet for the first four dwelling units plus one thousand eight hundred fifteen (1,815) square feet for each additional dwelling unit. Other Permitted Uses and uses permitted by a Conditional Use Permit shall have a minimum lot area and width as determined by the Board of Adjustment.
2. **Maximum Lot Coverage:** The maximum lot coverage for all buildings and structures shall not exceed thirty percent (30%) of the total lot area.
3. **Minimum Yard Requirements:** Permitted uses shall have a minimum front yard of twenty (20) feet, minimum side yards of seven (7) feet, and a minimum rear yard of ten (10) feet. Uses permitted by a Conditional Use Permit shall have minimum yard requirements as determined by the Board of Adjustment.

4. Height Regulations:

Single-Family Dwellings -- Two and one-half (2 ½) stories, excluding basement, or thirty-five (35) feet.

Other Allowable Uses -- Seventy-five (75) feet for towers or steeples and not more than forty-five (45) feet for the principal building.

11.10.07 **Manufactured Home Park Minimum Standards**

Manufactured home parks shall meet the following minimum standards:

1. **Streets** – Each manufactured home shall abut or face a public private roadway or street, such roadway or street having an all-weather surface of at least thirty (30) feet in width where parking is permitted on both sides, and twenty-four (24) feet in width where parking is restricted to one side only. Where private streets are proposed, they shall have a minimum right-of-way of forth (40) feet.
2. **Open Space of Buffer Zone** – A landscape buffer area of ten (10) feet in width shall be provided and maintained around the perimeter of the park, except where walks and drives penetrate the buffer.
3. **Lot Area** – Each lot provided for the occupancy of a single manufactured home unit shall not be less than fifty (50) feet in width and have an area of not less than five thousand five hundred (5,500) square feet, and the same shall be defined by markers at each corner.
4. **Density** – No park shall be permitted an average net density of manufactured home lots of more than seven (7) units per acre and each park shall provide a area of not less than two (2) acres.
5. **Spacing and Yard Requirements** – All manufactured housing units will be positioned on the manufactured home space in compliance and accordance with the zoning requirements at the time of establishment of the manufactured home park. Manufactured home parks established after the effective date of this ordinance will comply with the following:
 - a. **Front Yard** – All manufactured homes shall be located at least twenty (20) feet from any road of street. The distance will be measured from the wall of the structure to the street or roadway at the closest point.
 - b. **Side and Rear Yards** – All manufactured homes shall have minimum side yards of six (6) feet and a minimum rear yard of ten (10) feet.

- c. **Exceptions to minimum yard requirements** – A garage, canopy, or carport may project into a required side or rear yard provided it is located no closer than ten (10) feet to another manufactured home garage, canopy, carport, or addition thereto, and provided further that the maximum depth be twenty-four (24) feet.

A deck may project into a required side or rear yard provided it is located no closer than four feet to any other structure.

An enclosed vestibule containing not more than forty (40) square feet in area may project into a required yard for a distance not to exceed four (4) feet, but in no event closer than ten (10) feet to another manufactured home, garage, canopy, carport, or addition thereto.

Detached accessory buildings with a projected room area of not more than one hundred and twenty (120) square feet may project into a required side or rear yard provided it is located no closer than four (4) feet to another structure or right-of-way.

- d. **Maximum Lot Coverage** – No manufactured home shall occupy more than twenty-five percent (25%) of the area of the lot on which it is situated.
6. **Parking** – Two (2) off-street automobile parking spaces shall be provided for each manufactured home. Such off-street parking spaces shall be set-aside in a location convenient to the occupants of the manufactured home and shall have ingress and egress by means of a public way. Where parking areas are provided adjacent to a public street, ingress and egress thereto shall be made accessible only through driveways or openings not exceeding twenty-five (25) feet in width in the curb line of said street.
7. **Refuse Collection** – In the event that there is no individual garbage collection, the City shall require the developer of the manufactured home park to place a refuse collection station for said purpose. The refuse collection station shall be a minimum of one (1) two-yard dumpster situated on concrete, screened on four sides, for each twelve (12) families or fractions thereof, conveniently located to serve tenants not more than one hundred fifty (150) feet from any trailer unit served, and to be conveniently located for collection.
8. **Recreation Area** – The City Council may require the developer of the manufactured home park to dedicate no less than eight percent (8%) of the gross site area to recreational facilities appropriate to the needs of the occupants. The Planning Commission shall approve the designated recreation area.
9. **On-Site Management** – Each manufactured home park may be required to

- provide on-site management, by the owner or his/her representative. This requirement may be waived if a point of contact is established to ensure that the management, repairs, maintenance and janitorial work connected with the manufactured home park and all provisions of this Chapter are complied with.
10. **Water Supply and Distribution System and Sewage Disposal** – Each manufactured home shall be connected to the City sanitary sewer and water system.
 11. **Tie Down Requirements** – All manufactured homes, regardless of location, unless such manufactured homes are securely anchored to a permanent foundation approved by the Administrative Official, shall be anchored to the ground, in accordance with the manufacture’s specifications or as prescribed by the TR-75, issued June 1972, by the U.S. Department of Defense.
 12. **Maximum Age Limitation** – No manufactured home placed within a manufactured home park within the City limits of Clark may exceed ten (10) years from the date of manufacture.
 13. **Expansion** – Existing manufactured home parks may be extended provided the area of expansion is at least one (1) acre and complies with all other regulations herein set forth.
 14. **Building/Moved-in Building Permit Required** – Whenever a manufactured home is moved into a manufactured home park, a permit from the Administrative Official shall be required.
 15. **Skirting** – All manufactured homes, regardless of location, unless such manufactured homes are securely anchored to a permanent foundation, approved by the administrative official, shall be skirted within thirty (30) days of placement.

11.10.08 Application Procedure

Each application for a Manufactured Home Park shall be accompanied by a development plan incorporating the regulations established herein. The plan shall be drawn to scale and indicate the following:

1. Location and topography of the proposed manufactured home park, including adjacent property owners and proximity to Federal and State highways, and County, Township, and City road/streets;
2. Property lines and square footage of the proposed park;
3. Location and dimensions of all easements and right-of-ways;

4. Proposed general lay-out, including parking and recreation areas;
5. General street and pedestrian walkway plan;
6. General utility, water and sewer plan.

Upon approval of the application, the plan becomes part of the permanent record and it shall serve as the basis for the final site plan submission.

11.10.09 Manufactured Housing Subdivisions

Nothing in this ordinance shall be construed to prohibit subdividing and approved manufactured home park development into individual owner occupied lots. However, any such development shall be required to meet the subdivision regulations of the City of Clark.

Chapter 11.11: “C1” Central Commercial District

Section	
11.11.01	Intent
11.11.02	Permitted Uses
11.11.03	Permitted Accessory Uses
11.11.04	Conditional Uses
11.11.05	Prohibited Uses
11.11.06	Area Regulations
11.11.07	Screening

11.11.01 Intent

The intent of the “C1” Central Commercial District is to provide commercial areas for business establishments serving the needs of trade area residents, Permitted uses are intended to create a strong central business district, free from conflicting land uses, which is the focal point of trade area retail sales, personnel, business and professional services, governmental and cultural activities.

11.11.02 Permitted Uses

The following uses and structures shall be permitted in the “C1” Central Commercial District:

1. Retail and wholesale sales;
2. Finance, insurance and real estate services;
3. Business services excluding any warehousing and storage services;
4. Churches, welfare and charitable services, business associations, professional membership organizations, labor unions, and similar labor organizations, and civic social and fraternal associations;
5. Eating establishments;
6. Public buildings and grounds;
7. Service establishments;
8. Professional, governmental and education services;
9. Printing and publishing establishments;

10. Offices;
 11. Parking lot and/or parking garages;
 12. Bed and breakfasts;
 13. Theatres, bowling alleys and pool halls;
 14. On-premise sign;
 15. Off-premise signs.
-

11.11.03 Permitted Accessory Uses

The following accessory uses and structures shall be permitted in the “C1” Central Commercial District.

1. Accessory buildings and uses customarily incidental to permitted uses.
-

11.11.04 Conditional Use

The following uses may be permitted as a conditional use in the “C1” Central Commercial District by the Board of Adjustment, subject to such requirements, as the Board deems necessary to protect and promote the health, safety, and general welfare:

1. Bar/tavern and/or On-sale/off-sale liquor establishments;
2. Licensed day care centers;
3. Lumberyards;
4. Garages, repair shops and service stations;
5. Car washes provided that their operative machinery is within an enclosed structure and adequate drainage is provided;
6. Apartments;
7. Adult uses, which include but are not necessarily limited to adult entertainment facilities, adult bookstores and adult motion picture theatres.

11.11.05 Prohibited Uses

All uses and structures not specifically permitted or not permitted by conditional use shall be prohibited in the “C1” Central Commercial District.

11.11.06 Area Regulations

1. **Minimum Lot Requirements** – Permitted uses shall have a minimum lot area of three thousand five hundred (3,500) square feet and a minimum lot width of twenty-five (25) feet. Uses permitted by conditional use shall have a minimum lot area and width as determined by the Board of Adjustments.
 2. **Minimum Yard Requirements** – No yard shall be required in the “C1” Central Commercial District provided, however, that all buildings located on lots adjacent to a residential district shall observe a yard requirement equivalent to the minimum yard requirements of the residential district on the side or sides adjacent. Uses permitted by conditional use shall have minimum yard requirements as determined by the Board of Adjustment.
 3. **Maximum Lot Coverage** – The maximum lot coverage for all permitted uses shall not exceed ninety (90) percent. The maximum lot coverage for all uses permitted by conditional use shall be as determined by the Board of Adjustment.
 4. **Maximum Height** – The maximum height of all buildings and structures shall not exceed thirty-five (35) feet.
-

11.11.07 Screening

Where any “C1” use is adjacent to any Residential Zone, that use (building, parking or storage) shall be appropriately screened from the Residential Use District by planting or fencing, except where planting and/or fencing may be in conflict with Chapter 11.18

Chapter 11.12: “HC” Highway Commercial District

Section	
11.12.01	Intent
11.12.02	Permitted Uses
11.12.03	Permitted Accessory Uses
11.12.04	Conditional Uses
11.12.05	Prohibited Uses
11.12.06	Area Regulations
11.12.07	Screening

11.12.01 Intent

The intent of the “HC” Highway Commercial District is to serve the needs of the highway user and the automobile, and in so doing to establish appropriate locations for highway and automobile-related retail and service establishments which will not cause undue traffic congestion. It is not the intent of this district to encourage the extension or enlargement of strip commercial areas. Further, it is the intent of this district to accommodate those industrial uses able to meet performance standards and commercial uses not compatible with the “C1” Central Commercial District.

11.12.02 Permitted Uses

The following uses and structures shall be permitted in the “HC” Highway Commercial District:

1. Horticulture and the raising of field crops;
 2. Garages, repair shops and automobile service stations;
 3. Hotel/motel;
 4. Bed and breakfast;
 5. Offices;
 6. Eating establishments;
 7. Commercial Storage.
-

11.12.03 Conditional Uses

The following uses may be permitted as conditional uses in the “HC” Highway Commercial District by the City Board of Adjustment subject to such requirements, as the Board deems necessary to protect and promote the health, safety and general welfare.

1. Utility substations;
2. Bar/tavern and/or on-sale/off-sale liquor establishments;
3. Grain elevators and terminal;
4. Apartments;
5. Financial institutions;
6. Whole or retail sales of: lumber and other building materials, farm equipments, motor vehicles, marine crafts, manufactured homes, trailers, farm and garden supplies, fuel and ice, motor vehicles and automobile equipment; drug, chemicals, all allied products; dry goods and apparel; groceries, and related products; electrical goods, hardware, plumbing, heating and equipment and supplies; machinery, equipment and supplies; beer, wine and distilled alcoholic beverages; paper and paper products; furniture and home furnishings; lumber and construction materials;
7. General farm products (other than animals), household goods, and equipment maintenance;
8. Mortuaries;
9. Contract construction services;
10. Off-premise signs;
11. On-premise signs;
12. Truck or bus terminal;
13. Wholesale merchandising or storage warehouse;
14. Car washes provided that their operative machinery is within an enclosed structure and adequate drainage is provided;
15. Laundromats.
16. Campgrounds

11.12.04 Permitted Accessory Uses

The following accessory uses and structures shall be permitted in the “HC” Highway Commercial District.

1. Accessory buildings and uses customarily incidental to permitted uses.
-

11.12.05 Prohibited Uses

All users and structures not specifically permitted or not permitted by conditional use shall be prohibited in the “HC” District.

11.12.06 Area Requirements

1. **Minimum Lot Requirements** – The minimum lot area for permitted uses shall be twenty thousand (20,000) square feet. The minimum lot width for permitted uses shall be one hundred (100) feet. The minimum lot area and width for uses permitted by conditional use shall be as determined by the City Board of Adjustment.
 2. **Minimum Yard Requirements** – Permitted uses shall have a minimum front yard of twenty-five (25) feet, minimum side yards of ten (10) feet, and a minimum rear yard of twenty (20) feet. The minimum yard requirement shall be forty (40) feet when the permitted or conditional use is adjacent to residentially zoned property. The minimum yard requirements for uses permitted by conditional use shall be as determined by the City Board of Adjustment.
 3. **Maximum Lot Coverage** – The maximum lot coverage for all buildings and structures shall not exceed seventy-five percent (75%) of the total lot area. The maximum lot coverage for uses permitted by conditional use shall be as determined by the City Board of Adjustment.
 4. **Maximum Height** – The maximum height of all buildings and structures shall not exceed forty-five (45) feet.
-

11.12.07 Screening

Where any “HC” use is adjacent to any Residential Zone, that use (building, parking or storage) shall be appropriately screened from the Residential Use District by planting or fencing, except where planting and/or fencing may be in conflict with Chapter 11.18

Chapter 11.13: “I” Industrial District

Section

11.13.01	Intent
11.13.02	Permitted Uses
11.13.03	Permitted Accessory Uses
11.13.04	Conditional Uses
11.13.05	Prohibited Uses
11.13.06	Area Regulations
11.13.07	Performance Standards
11.13.08	Screening

11.12.01 Intent

The intent of the "I" Industrial District is to accommodate industrial uses meeting performance standards designed to protect nearby non-industrial uses from adverse environmental conditions, and to accommodate certain other business uses.

11.13.02 Permitted Uses

The following uses and structures shall be permitted in the “I” Industrial District:

1. Horticulture and the raising of field crops;
2. On-premise signs;
3. Utility substations;
4. Motor freight terminals, garaging and equipment maintenance;
5. Contract construction services;
6. Storage plants, lumber yards, distributing stations and warehouses;
7. Motor freight terminals, garaging and equipment maintenance;
8. Light assembly work, machine shop doing assembling or shaping and light cutting and sampling;
9. Woodworking shops or plants;
10. Grain elevator;

11. Any industrial use, other than those permitted by conditional use, which can meet the performance standards listed in section 11.13.07.
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11.13.03 Permitted Accessory Uses

The following accessory uses and structures shall be permitted in the “I” Industrial District:

- Buildings and structures customarily incidental to permitted uses.
-

11.13.04 Conditional Uses

The following uses may be permitted as a conditional use in the “I” Industrial District by the Board of Adjustment, subject to such requirements as the Board deems necessary to protect and promote the health, safety and general welfare:

1. Junk or salvage yards, provided that the area is enclosed or screened from public view as required by the Board of Adjustment;
 2. Slaughterhouse;
 3. Explosive manufacture or storage;
 4. Fertilizer manufacture;
 5. Incineration or reduction of garbage, dead animals, fat or refuse;
 6. Livestock sales or auction barns and yards.
-

11.13.05 Prohibited Uses

All uses and structures not specifically permitted or not permitted by conditional use shall be prohibited in the “I” District.

11.13.06 Area Regulations

1. **Minimum Lot Requirements** – The minimum lot area for permitted uses shall be thirty thousand (30,000) square feet. The minimum lot width for permitted uses shall be one hundred fifty (150) feet. The minimum lot area and width for uses permitted by conditional use shall be as determined by the Board of Adjustment.
2. **Minimum Yard Requirements** – Permitted uses shall have a minimum front yard of fifty (50) feet; minimum side yards of ten (10) feet, except when

bordering a residential district, then a side yard should be thirty five (35) feet and such side yards shall be landscaped or fenced in a suitable manner to buffer residential uses; and a minimum rear yard depth of thirty-five (35) feet shall be required which abut a residential district and such rear yard shall be landscaped or fenced in a manner to buffer residential uses. All other rear yards shall be twenty-five (25) feet. The minimum yard requirements for uses permitted by conditional use shall be as determined by the Board of Adjustment.

All outdoor storage within 500 feet of a residential district must be completely enclosed in a building or by a solid walled fence at least two (2) feet above the highest point of the stock pile which fence shall be maintained in safe and good repair;

Storage yards for junk shall be set back a minimum of one hundred (100) feet from any adjoining street line and thirty-five (35) feet from any other property line, and shall be screened by a solid wall at least two (2) feet above the highest stock pile and maintained in a state of good repair. Further provided, that no storage yard for junk shall be allowed on any lot in an "I" Industrial zone that is within five hundred (500) feet of a residential zone.

3. **Maximum Lot Coverage** – The maximum lot coverage for all buildings and structures shall not exceed fifty (50) percent of the total lot area. The maximum lot coverage for uses permitted by conditional use shall be as determined by the Board of Adjustment.
4. **Maximum Height** – The maximum height of all buildings and structures shall not exceed forty-five (45) feet.

11.13.07 Performance Standards

1. **Noise** – All noise shall be muffled so as not to be objectionable due to intermittence, beat frequency or shrillness.
2. **Air Pollution** – State emission standards shall be met by all possible sources of air pollution. In any case, there shall not be discharged from any sources whatsoever such quantities of air contaminants, smoke or detriment, nuisance or annoyance to any considerable number of persons or to the public in general to endanger the comfort, health or safety of any such considerable number of persons or have a natural tendency to cause injury or damage to business, vegetation or property.
3. **Odor** – The emission of odorous matter in such quantities as to be readily detectable at any point along lot lines or to produce a public nuisance or hazard beyond lot lines is prohibited.
4. **Glare, Heat or Radiation** – Every use shall be so operated that there is no

- emission or heat, glare or radiation visible or discernable beyond the property line.
5. **Vibration** – Every use shall be so operated that the ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point on the property line.
 6. **Sewage and Liquid Wastes** – No operation shall be carried on which involved the discharge into a sewer, watercourse, river or the ground of liquid wastes or any radio-active nature, or liquid wastes of chemical nature, which are detrimental to normal sewage plant operations or corrosive or damaging to sewer pipes and installations.
 7. **Fire Hazard** – All flammable substances involved in any activity or use, shall be handled in conformance with the standard of the National Board of Fire Underwriters and any additional regulations that may from time to time be adopted by the City Council.
 8. **Physical Appearance** – All operations shall be carried on within an enclosed building except that new or operable equipment may be displayed or stored in the open and waste materials stored in enclosed containers, not readily visible from the street. .

11.13.08 Screening

Where any “I” use is adjacent to any Residential Zone, that use (building, parking or storage) shall be appropriately screened from the Residential Use District by planting or fencing, except where planting and/or fencing may be in conflict with Chapter 11.18

Article III – Administration

Chapter 11.14: General

Section	
11.14.01	Permits Required
11.14.02	Applications
11.14.03	Fee Schedule
11.14.04	Issuance of Permits
11.14.05	Expiration of Use Permits

11.14.01 Permits Required

No building or other structure shall be erected, moved, added to, or structurally altered without a permit issued by the Administrative Official. No permit shall be issued by the Administrative Official except in conformity with the provisions of this ordinance, unless the Administrative Official has received a written order from the Board of Adjustment in the form of an administrative review, under conditional use, or variance as provided by this ordinance.

11.14.02 Applications

All applications for permits shall be accompanied by a site plan drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of the buildings already existing, if any; and the location and dimensions of the proposed building or alteration. The application shall include such other information as lawfully may be required by the Administrative Official, including legal description, existing or proposed buildings or alterations; existing or proposed uses of the building and land; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformity with, and provide for the enforcement of, this ordinance. Such plans and data accompanying the permit shall be final and conclusive, and a deviation there from shall require a new permit.

The Administrative Official shall return one copy of the permit application to the applicant, after such copy has been marked either approved or disapproved and attested to by his signature on such copy. The Administrative Official shall retain the original of the permit application and site plan, similarly marked. The Administrative Official shall then, if the application is approved, issue a signed building permit; or if the application is disapproved he shall notify the party making the application as to rejection of said plans.

11.14.03 Fee Schedule

The City Council shall by resolution establish a schedule of fees, charges and expense and a collection procedure for building permits, conditional use permits, variances, amendments, appeals, and other matters pertaining to this ordinance. The schedule of fees may be altered or amended only by the City Council.

The current fee schedule shall be available from the Administrative Official. All fees shall be the property of the City and shall be paid over to the city Finance Officer for credit to the General Fund of the City, which under no condition shall be refunded. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.

11.14.04 Issuance of Permits

Permits issued on the basis of plans and applications approved by the Administrative Official authorize only the use, arrangement, and construction set forth in such approved plans and applications, and other use, arrangements, or construction at variance with that authorized shall be deemed violation of this Ordinance, and punishable as provided by Section 11.02.02 of this Code.

11.14.05 Expiration of Use Permit

If the work desired in any use permit has not begun within ninety (90) days from the date of issuance thereof, said permit shall expire; it shall be canceled by the Administrative Official, and written notice thereof shall be given to the persons affected.

If the work described in any use permit has not been substantially completed within one (1) year of the date of issuance thereof, said permit shall expire and be canceled by the Administrative Official, and written notice thereof shall be given to the persons affected, proceed unless and until a new permit has been obtained.

Chapter 11.15: Administrative Official

Section

11.15.01 Establishment and Purpose

11.15.02 Duties/Powers

11.15.01 Establishment and Purpose

The position of Administrative Official is hereby established for the City of Clark. The City Finance Officer shall serve as the Administrative Official. Further, he/she may be provided with the assistance of such other persons as the City Council may direct. The Administrative Official shall administer and enforce this Ordinance. It is the intent of this ordinance that questions of interpretation and enforcement shall be first presented to the Administrative Official and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Administrative Official.

11.15.02 Duties/Powers

The powers and duties of the Administrative Official shall be as follows:

1. Issue all building permits and make and maintain records thereof.
2. Conduct inspections of buildings, structures and the use of land to determine compliance with this ordinance.
3. Notify in writing persons responsible for violations, indicating the nature of the violation and ordering action necessary to correct it.
4. Order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions; alterations or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this ordinance to ensure compliance with or to prevent violation of its provisions.
5. Revoke any permit, which was unlawfully issued, or any permit wherein defective work has been performed, and when such work has not been corrected within ninety (90) days of notification.
6. Maintain permanent and current records of this regulation, including, but not limited to, all maps, amendments, variance, appeals and applications.
7. Provide public information relative to all matters arising out of this ordinance.

8. Forward to the Planning Commission all applications for amendments to this ordinance.
 9. Forward to the Board of Adjustment, applications for appeal, conditional use permits, variances or other matters on which the Board of Adjustment is required to pass under this ordinance.
 10. Initiate, direct and review, from time to time, a study of the provisions of this ordinance, and to make such reports available to the Planning Commission. The Administrative Official shall receive applications for Building Permits, Conditional Uses, Variances and Zoning Amendments.
 - a. For Building Permits, the Administrative Official shall approve the application only in accordance with the provisions of City's Zoning Regulations.
 - b. For Conditional Uses and Variances, the Administrative Official shall review the application, and shall make a recommendation to the Board of Adjustment to either approve or disapprove said application.
 - c. For Zoning Amendments, the Administrative Official shall review the application, and shall make comments regarding said application to the Planning Commission and City Council.
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Chapter 11.16: Board of Adjustment

Section

11.16.01	Establishment
11.16.02	Procedures for Meetings
11.16.03	Hearings; Appeals; Notice
11.16.04	Stay of Proceedings
11.16.05	Powers and Duties of Board of Adjustment

11.16.01 Establishment

A Board of Adjustment is hereby established, which shall consist of the Mayor and members of the City Council, as provided for in the provisions of Chapter 11-4, South Dakota Codified Laws and Amendments. The Mayor shall act as chairman of the Board.

11.16.02 Procedures for Meetings

The Board of Adjustment shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this ordinance. Meetings shall be held at the call of the chairman and at such other times as the Board of Adjustment may determine. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.

The Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official action, all of which shall be filed in the office of the City Finance Officer of the City of Clark, South Dakota and shall be a public record.

11.16.03 Hearings; Appeals; Notice

Appeals to the Board of Adjustment concerning interpretation or administration of this ordinance may be taken by any person aggrieved or by any officer of the governing body of the city affected by any decision of the Administrative Official. Such appeals shall be taken within a reasonable time, not to exceed sixty (60) days of such lesser period as may be provided by the rules of the Board, by filing with the Administrative Official and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The Administrative Official shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken.

The Board of Adjustment shall fix a reasonable time for the hearing of appeal, give public notice thereof as well as due notice to the parties in interest, and decide the same

within a reasonable time. At the hearing, any party may appear in person or by agent or attorney.

11.16.04 Stay of Proceedings

An appeal stays all proceedings in furtherance of the action appealed from unless the Administrative Official from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal is filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause an imminent peril to life and property. In such case proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application, on notice to the Administrative Official from whom the appeal is taken and on due cause shown.

11.16.05 Powers and Duties of Board of Adjustment

The Board of Adjustment shall have the following powers and duties:

1. Administrative Review:

- a. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Administrative Official in the enforcement of this Ordinance.
- b. To hear and decide appeals to decisions made by the Administrative Official regarding Zoning permits.

2. Conditional Uses:

To hear and decide only such conditional uses as the Board of Adjustment is specifically authorized to pass on by the terms of this Ordinance; to decide such question as are involved in determining whether conditional uses should be granted; and to grant conditional uses with such conditions and safeguards as are appropriate under this ordinance, or to deny conditional uses when not in harmony with the purpose and intent of this ordinance.

3. Variances:

To hear requests for variances from this ordinance in instances where strict enforcement would cause unnecessary hardship, and to authorize upon appeal in specific cases such variance from the terms of this ordinance as which will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance would result in unnecessary hardship.

Chapter 11.17: Procedures for Applications

Section

11.17.01	Building Permits
11.17.02	Conditional Uses
11.17.03	Variances
11.17.04	Board has Powers of Administrative Official on Appeals; Reversing Decision of Administrative Official
11.17.05	Appeals
11.17.06	Zoning Amendments
11.17.07	Reapplication

11.17.01 Building Permits

No new development, change of use, moving in/moving out of structures, demolition, or other action which may be regulated by the provisions of this ordinance including use, height, number of occupants, lot area, off street parking or yard requirements, shall occur without a Building Permit issued by the Administrative Official. Building permits issued on the basis of plans and applications approved by the Administrative Official authorize only the use, arrangement, or construction set forth in such approved plans and specifications. Any use, arrangements, or construction at variance without authorization shall be deemed a violation of this regulation and shall be punishable as provided by this regulation. The failure to obtain the necessary building permit shall be punishable under this regulation.

1. An application for a Building Permit, accompanied with the appropriate fee, available from the Administrative Official, shall be completed by the landowner requesting the Building Permit. Completed applications shall be returned to the Administrative Official for review. To be considered complete, the application form shall be accompanied by the following additional items:
 - a. Applications for building permits shall be accompanied by a set of plans drawn to scale with the following information indicated in order to determine compliance with this Ordinance.
 - b. A plot plan, drawn to scale, showing the exact size, shape, and dimensions of the lot to be built upon, the exact size and location on the lot of all existing buildings and structures, and the exact size and location on the lot of the structure or building proposed to be repaired, altered, erected, or moved, and the size, arrangement, number of parking stalls, movement of vehicles and ingress and egress drives for all off-street parking and loading facilities.
 - c. The location of the said lot with respect to existing rights-of-way and adjacent lots.

- d. A letter of certification stating that the lot to be built upon has been accurately surveyed.
 - e. Any other information which the Administrative Official may deem necessary for consideration in enforcing the provisions of this Ordinance.
 - f. Any of the above requirements may be waived by the Administrative Official in cases of permits to alter the interior of any existing structure or in the event lot markers (pins) have been located.
2. One copy of the plans shall be returned to the applicant, after the Administrative Official has marked such copy as either approved or disapproved, and attested to the same by signing said copy of the plans. One copy of the plans, similarly marked, shall be retained by the Administrative Official.
3. If the Administrative Official determines the proposed action would not be in compliance with the provisions of these regulations, a building permit may not be issued, and the applicant may then appeal the action of the Administrative Official to the Board of Adjustment.

11.17.02 Conditional Uses

Conditional Uses are allowed for certain uses in some districts, as identified in Article II District Regulations. Uses not listed in Article II District Regulations as eligible for a Conditional Use Permit shall not, in any circumstances, be granted a Conditional Use Permit.

1. The following procedure shall be followed by the Board of Adjustment in considering the recommendation of the Administrative Official. A Conditional Use Permit from the terms of this ordinance shall not be granted by the Board of Adjustment unless and until:
 - a. An application for a Conditional Use Permit, available from the Administrative Official, shall be completed by the landowner requesting the Conditional Use Permit. The application shall further be accompanied by any required attachments and fees including Registered or Certified Mail costs, as prescribed in Section 11.14.03.. The written application for a conditional use shall indicate the section of this ordinance under which the conditional use is sought and stating the grounds on which it is requested; Completed applications shall be returned to the Administrative Official for review. To be considered by the Board of Adjustment, the application form shall be completed. If any of the information required in Section 11.17.01 has changed since the original Building Permit application, the revised, updated or corrected information shall accompany the application for a Conditional Use Permit.
 - b. The Administrative Official shall review the application, and shall make a

recommendation to the Board of Adjustment to either approve or not approve said application. The Administrative Official's recommendation shall include a summary of the application, and reasons and justifications for either approval of or disapproval of the application;

- c. The Administrative Official shall set the date, time and place for a public hearing to be held by the Board of Adjustment. The Administrative Official shall notify the adjacent landowners (excluding streets and alley) by mail at the expense of the applicant, at least one week before the public hearing. The Administrative Official shall publish notice of the public hearing, with all costs to be paid by the applicant, not less than ten (10) days prior to the public hearing in a newspaper of general circulation in the area affected by the proposed Conditional Use Permit.
- d. A public hearing shall be held. Any party may appear in person, or by agent or attorney.
- e. The Board of Adjustment shall make a finding that it is empowered or not empowered under the section of this ordinance described in the application to grant the Conditional Use Permit, and that the granting of the Conditional Use Permit will not adversely affect the public interest.
- f. Before any Conditional Use shall be issued, the Board of Adjustment shall make written finding certifying compliance with the specific rules governing individual Conditional Uses and that satisfactory provision and arrangement has been made concerning the following, where applicable:
 - i. Utilities, refuse and service areas, with reference to locations, availability and compatibility;
 - ii. Screening and buffering with reference to type, dimensions and character;
 - iii. Required yards and other open space; and
 - iv. General compatibility with adjacent properties and other property in the district.
 - v. Entrance and exit to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
 - vi. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties;

2. In order to preserve the intent of these Zoning Regulations and to protect the public interest, the Board of Adjustment may attach conditions to a Conditional Use Permit. A Conditional Use Permit shall remain valid only as long as the original applicant complies with any terms and conditions of the Conditional Use Permit, as attached by the Board of Adjustment.
 3. Approval or denial of any application for a Conditional Use permit shall be a two-thirds (2/3) majority (4 votes) of all members of the Board of Adjustment.
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11.17.03 Variances

Variances are designed to allow some flexibility in the Zoning Regulations, in cases where the exceptional shape of a parcel of land, in cases where use of a property is overwhelmingly affected by exceptional topographic conditions, or any other extraordinary situation or condition of such a parcel of land. Variances are to be approved only when a property owner demonstrates that the provisions of all or part of these regulations present an undue hardship on such property owner's use of such parcel land. A variance shall include a description of the specific regulatory item or items in these regulations, which are found to produce, said undue hardship. Variances shall only be granted when the Board of Adjustments find that such relief from these Zoning Regulations will be neither detrimental to the public good nor in conflict with the intent of these Zoning Regulations.

The following procedure for requesting a Variance shall be followed:

1. The following procedure shall be followed by the Board of Adjustment in considering a variance from the terms of this ordinance:
 - a. An application for Variance, available from the Administrative Official, shall be completed by the landowner requesting the variance and shall be accompanied by any required attachments and fees, including Registered or Certified Mail costs as in Section 11.14.03. The written application for a variance shall indicate the section of this Ordinance under which the variance is sought and stating the grounds for which it is requested. Completed applications shall be returned to the Administrative Official for review. To be considered by the Board of Adjustment, the application form shall be completed. If any of the information required by Section 11.17.03 has changed since the original Building Permit application, the revised, updated or corrected information shall accompany the application for a variance.
 - b. The Administrative Official shall review the application, and shall make a recommendation to the Board of Adjustment to either approve or not approve said application. The Administrative Official's recommendation shall include a summary of the application, and reasons and justification

for either approval or disapproval of the application.

- c. The Administrative Official shall set the date, time and place for a public hearing to be held by the Board of Adjustment. The Administrative Official shall notify the landowner and the adjacent landowners (excluding streets and alleys) by Registered or Certified Mail at the expense of the applicant, and shall post notices of the public hearing at the City Office at least one (1) week before the public hearing. The Administrative Official shall publish notice of the public hearing, with all costs to be paid by the applicant, no less than (10) days prior to the public hearing in a newspaper of general circulation in the area affected by the proposed variance.
- d. A public hearing shall be held. Any party may appear in person, or by agent or attorney;
- e. The Board of Adjustment shall follow the following procedure in considering the recommendation of the Administrative Official. A variance from the terms of this ordinance shall not be granted by the Board of Adjustments unless and until:
 - i. A written application for a variance is submitted demonstrating:
 - a) That special conditions and circumstances exist which are peculiar to the land, structure or building involved, and which are not applicable to other land, structures, or buildings in the same district.
 - b) That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance.
 - c) That the special conditions and circumstances do not result from the actions of the applicant.
 - d) That granting the variance request will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures or building in the same district.
 - e) No non-conforming use of neighboring lands, structures or buildings in the same district, and no permitted or non-conforming use of lands, structures, or building in other districts shall be considered grounds for the issuance of a variance.
 - ii. The Board of Adjustment shall make findings that the

requirements of Section 11.17.03.1.e.i above have been met by the applicant for a variance.

- iii. The Board of Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of land, building or structure.
 - iv. The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
 - v. Approval or denial of any variance shall be by a two-thirds (2/3) majority of all members of the Board of Adjustment.
2. In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable under Section 11.02.02 of this Code.
 3. Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district.

11.17.04 Board has Powers of Administrative Official on Appeals; Reversing Decisions of Administrative Official

1. It is the intent of this Ordinance that all questions of interpretation and enforcement shall be first presented to the Administrative Official, and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Administrative Official.
2. In exercising the above-mentioned powers, the Board of Adjustment may, so long as such action is in conformity with the terms of this ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have the powers of the Administrative Official from whom the appeal is taken.
3. The concurring vote of two-thirds (2/3) of all members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination of the Administrative Official, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to effect

any variance in the application of this ordinance.

11.17.05 Appeals

Any person(s), jointly or severally, aggrieved by any decision of the Board of Adjustment may seek review by a court of record of such decision, in the manner provided by the laws of the State of South Dakota. The petition shall be presented to the court within thirty (30) days after the filing of the decision in the office of the Finance Officer.

11.17.06 Zoning Amendments

The regulations, restrictions and boundaries set forth in this Ordinance may from time to time be amended, supplemented, changed, or repealed, provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Unless otherwise provided for in these regulations, any change in these regulations, shall require City Council approval of an ordinance describing said changes. The City Council may not consider said ordinance until the Planning and Zoning Commission has delivered a recommendation to either approve or not approve said ordinance.

The following procedure for requesting a Zoning Amendment shall be followed:

1. An application for Amendment, available from the Administrative Official shall be completed by the landowner or other person(s) requesting the Amendment. Completed applications shall be returned to the Administrative Official for review. To be considered by the Planning and Zoning Commission and City Council, the application form shall be completed and shall be accompanied by the following items:
 - a. Any required attachments and fees, including Registered or Certified mail costs in Section 11.14.03.
 - b. Any additional information, as requested by the Administrative Official, as lawfully may be required to determine conformance with and provide for enforcement of this ordinance.
2. The Administrative Official shall review the application, and shall forward a summary of the application, and his/her comments regarding said application, to the Planning Commission for their review.
3. The Administrative Official shall set the date, time and place for a joint public hearing to be held by the Planning Commission and City Council. The Administrative Official shall notify the landowner by Registered or Certified Mail at least one (1) week before the public hearing, and shall post notices of the public

- hearing at the City Office. The Administrative Official shall also publish notice of the public hearing in a newspaper of general circulation in the area affected by the proposed amendment; such notice shall be published not less than ten (10) days prior to the public hearing. If the proposed amendment will change the boundaries of a zoning district, the Administrative Official shall notify all owners of property within 250 feet of the proposed boundary change, by Registered or Certified Mail at the expense of the applicant, at least one (1) week before the public hearing.
4. The public hearing shall be held. Any person may appear in person, or by agent or attorney. Minutes of the public hearing shall be recorded and kept in the records of the Planning Commission.
 5. The Planning Commission shall either recommend or not recommend approval of the amendment to the City Council.
 6. The City Council shall either approve or not approve the ordinance describing the proposed changes to these Zoning Regulations, in accordance with standard procedures for reading, approval, publication and effective date.
 7. When the City Council approves a proposed amendment affecting the zoning classification of property, affected property owners may file a written protest to stop such an amendment from taking effect. If the protest meets the following standard, such amendment shall not become effective unless the amendment is approved by two-thirds (2/3) of the City Council.
 - a. Protest Standard: The protest shall be signed by at least 40% of the owners of equity in the parcels in the area affected by the amendment, and the parcels or parts of parcels within 250 feet of the area affected by the amendment.

11.17.07 Reapplication

No application requesting a variance, conditional use, or zoning ordinance amendment or district classification change on any property whose application includes any such property either entirely or substantially the same as that which has been denied by the Board of Adjustment or City Council, shall again be considered by the Planning Commission, Board of Adjustment or City Council before the expiration of six (6) months from the date of the final action of the Planning Commission, Board of Adjustment, and or City Council.

Article IV – Supplemental Regulations
Chapter 11.18: Visibility/Fences

Sections

- 11.18.01 Visibility at Intersections
11.18.02 Fence Construction Limitations
-

11.18.01 Visibility at Intersections

On a corner lot in any zoning district, no planting or obstruction to vision between the range of three (3) and eight (8) feet in height measured from the center line of the road shall be placed or maintained within the triangular area formed by the intersection road right-of-way lines and a straight line connecting points on said road right-of-way line each of which is fifty (50) feet in distance from the point of intersection (Clear View Triangle).

11.18.02 Fences Construction Limitations

Notwithstanding other provisions of this ordinance, the placement and height of fences, walls and hedges shall be regulated as follows:

1. No person shall hereafter construct, erect or maintain or cause to be constructed, erected or maintained, in the City of Clark corporate limits any fences of any character or material, without first securing permission from the Administrative Official.
2. Fences, walls and hedges may be placed on any part of a lot and shall not exceed a height of seven (7) feet; **except that**; fences, walls and hedges erected in the required front yard shall not exceed a height of four (4) feet; **and** fences, walls, and hedges which are more than thirty (30) percent solid shall abide by Section 11.18.01.
3. No such fence of any kind shall be built closer than one foot to the sidewalk line. Exception: A fence/wall/hedge may be placed on the property line when the fence/wall/hedge is shared between property owners.
4. Approved fencing materials include stone, brick, wood, vinyl, and chain link. The City further requires fencing materials to be “new” - used for first time installation. Individuals wishing to utilize “used” – not first time installation fencing materials shall require Board of Adjustment approval. No electric or barbed wire shall be used in the construction of any fences within the “C1” Central Commercial District, in any residentially zoned districts, or on the property lines separating agricultural, commercial or industrial zoned property with residentially zoned property. Except that barbed wire may be used on agricultural property and in connection with a security fence when the barbed

- wire is at least six (6) feet from the ground.
5. Hedges or other plantings which create a fence effect are subject to the same regulations as fences.
 6. Fences that are adjacent to alleys shall be set back five (5) feet from the street/boulevard right-of-way.

Chapter 11.19: Accessory Uses

Section

11.19.01 Accessory Buildings

11.19.01 Accessory Buildings

1. Accessory uses must be subordinate to principle use.
2. No accessory use shall be permitted in any district unless such use is specifically authorized by this ordinance. No accessory use shall be deemed to be authorized by this ordinance unless such use is in fact subordinate to and on the same zoning lot with the principle use in conjunction with which it is maintained.
3. No accessory building which is attached to or within ten (10) feet of a principal structure shall be erected in any required yard. Exceptions:
 - a. No separate accessory building shall be erected within **five (5)** feet of any side or rear lot line.
 - b. Accessory buildings may be located in a rear yard, but may not occupy more than thirty percent (30%) of a rear yard, and shall not be used for dwelling purposes.
4. No separate accessory building shall be erected within five (5) feet of any other building.
5. No accessory building may be used for residential dwelling purposes at any time.
6. Residential districts.

Accessory uses shall be permitted for the principle permitted uses and conditional uses of the residential districts only in accordance with the provisions of the following table hereby adopted by reference and declared to be part of this ordinance.

7. Commercial and Industrial Districts.

In any commercial or industrial district, any accessory use customarily incident to the principle permitted use or conditional use shall be permitted, except those uses specifically prohibited in the district.

Permitted Uses:

Principal Use	Permitted Accessory Uses
Single-family dwellings; duplexes; townhouses and multiple-family dwellings; nursery schools and Day care centers. a. Have siding material of a type customarily used on site-constructed residence. This is not to include corrugated galvanized steel or steel panel siding.	1. Private garages. i. Attached garages shall be limited to maximum dimensions of thirty (30) feet by thirty-six (36) feet and conform to the design of the house. ii. Unattached garages shall be limited to maximum sidewalls of fourteen (14) feet; maximum dimensions of thirty (30) feet by thirty-six (36) feet; and a maximum of 4/12 roof pitch or to conform to the design of the house. iii. Unattached garages shall have siding material of a type customarily used on site-constructed residence. Comparable to dwelling and be color coordinated to dwelling. Exception: steel panel siding, not corrugated galvanized steel) may be used only if approved by one hundred percent (100%) of adjacent property owners. 2. Buildings or structures for customary residential storage purposes not over ten (10) feet in height and not exceeding one hundred fifty (150) square feet in gross floor area. 3. Readily moveable sports, recreation, or outdoor cooking equipment. 4. Permanent sports or recreational structures or facilities, such as tennis courts, swimming pools (with an approved security fence), barbeque pits, and similar improvements provided a site plan for such facility is approved. 5. Home occupations but only as defined herein. 6. Non-commercial greenhouses provided that greenhouses over 100 square feet in floor area must have an approved site plan. 7. Off-street parking and storage of vehicles, but only as provided in Chapter 11.21 of this Ordinance.

Churches, Convents and Monasteries	1. All customarily incidental uses reasonably necessary to allow the free exercise of religion, but not to include commercial use.
All conditional uses	1. All customarily incidental uses reasonably necessary to promote the primary purposes of the principal use, provided that such use must be specifically authorized by the Board of Adjustment for the principal use
All other items	1. No accessory uses permitted.

Chapter 11.20: Signs and Outdoor Advertising

Section

11.20.01 On – and Off-Site Signs

11.20.01 On – and Off-Site Signs

1. No private sign shall be erected or maintained which:
 - a. Creates a hazard due to collapse, fire, collision, decay or abandonment; or
 - b. Creates traffic hazards, by either:
 - i. Confusing or distracting motorists; or
 - ii. Impairing the driver's ability to see pedestrians, obstacles or other vehicles, or
 - iii. Impairing the driver's ability to see and interpret any official traffic sign, signal or device; or
 - iv. Creates a nuisance to persons using a public right-of-way; or
 - v. Constitutes a nuisance to occupancy of adjacent and contiguous property by its brightness, size, height or movement.
2. Signs shall be permitted in all zoning districts, subject to the following provisions:
 - a. Wall signs may be located anywhere on the wall of a building.
 - b. Freestanding signs shall not project over public property.
 - c. Freestanding signs shall not be erected adjacent to a corner of two intersecting streets, unless such signs are constructed to not obstruct the view of said intersection.
 - d. Each sign in the incorporated limits of Clark shall at least meet the standards established by the South Dakota Department of Transportation.
 - e. Other than utility fixtures or holiday decorations, no signs, awnings or display shall be suspended, hanged or placed so that the same shall hang over any part of a street or sidewalk, used for vehicular or pedestrian travel unless a written application for a permit is made to the Administrative Official and the said Official grants a permit therefore.

- f. The maximum square footage for on-premise wall signs in the Commercial Zoning Districts shall be twenty (20) percent of the area of the wall which such sign is a part of, attached to or most nearly parallel to.
 - g. The maximum square footage for on-premise wall signs in the Industrial Zoning District shall be ten (10) percent of the area of the wall which such sign is a part of, attached to or most nearly parallel to.
 - h. The maximum square footage for on-premise wall signs in the Agricultural Zoning District shall be ten (10) percent of the area of the wall which such sign is a part of, attached to or most nearly parallel to.
 - i. The maximum square footage for on-premise wall signs in the Residential Zoning District shall be three (3) square feet.
 - j. The maximum square footage for on-premise free standing signs in the “C1” Commercial Zoning shall be one (1) square foot for each two (2) lineal feet of frontage or seventy-five (75) square feet, whichever is less.
 - k. The maximum square footage for on-premise free standing signs in the “C3” Commercial Zoning District or “I” Industrial Commercial Zoning District shall be one (1) square foot for each lineal foot of frontage or two hundred (200) square feet, whichever is less.
 - l. Off-premise signs erected in those zoning districts where permitted shall have a maximum surface area of three hundred (300) square feet.
3. The Administrative Official shall take into consideration factors that would make the proposed structure likely to endanger the property or personal safety of passerby traveling the streets or sidewalks in question, and whether or not such structure complies with the Uniform Building Code relating to outdoor advertising.

Chapter 11.21: Parking

Section

11.21.01	Parking, Storage or Use of Major Recreation Equipment
11.21.02	Parking and Storage of Certain Vehicles
11.21.03	Off-Street Parking Requirements

11.21.01 Parking, Storage or Use of Major Recreation Equipment

1. For purposes of these regulations, major recreational equipment is defined as including boats and boat trailers, travel trailers, pick-up campers or coaches (designed to be mounted on automotive vehicles), motorized dwellings, tent trailers, and the like, and cases or boxes used for transporting recreational equipment, whether occupied by such equipment or not. No major recreational equipment shall be parked or stored in the required front yard of any lot in a residential district except as follows: Major recreation equipment may be parked in the required front yard for a period not to exceed twenty-four (24) hours during loading or unloading.
 2. Major recreation equipment may be parked upon a driveway providing direct access to the garage or rear yard;
 3. Major recreation equipment may be parked upon any other driveway provided that it is no wider than twenty-two (22) feet:
 4. Major recreation equipment may be parked upon the yard area between the driveway and the nearest side lot line.
 5. No recreational equipment shall be used for living, sleeping or housekeeping purposes when parked or stored on a residential lot, or in any location not approved for such use.
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11.21.02 Parking and Storage of Certain Vehicles

Automotive vehicles or trailers of any kind or type without current license plates shall not be parked or stored on any residentially zoned property other than in completely enclosed buildings.

11.21.03 Off-Street Parking Requirements

Except in the “C1” Central Commercial District, off-street motor vehicle parking and

loading spaces shall hereafter be provided on the same lot as, and in the number stated, for each use set forth in the Schedule of Minimum Off-street Parking and Loading Requirements below. In the event the minimum number of spaces specified cannot be reasonably provided on the same lot as the principle use for which the spaces are required, the Zoning Commission may permit such spaces to be provided on other off-street property within four hundred (400) feet of the entrance to such principle use.

USE OR STRUCTURE	MINIMUM PARKING REQUIREMENTS	MINIMUM LOADING REQUIREMENTS
Bed & Breakfast	One (1) space for each guest room	None
Bowling Alleys	Four (4) spaces per alley	One (1) space per establishment
Bowling Alleys	Four (4) spaces per alley	One (1) space per establishment
Churches	One (1) space for each four (4) seats in the main seating area	None
Eating & Drinking Places	One (1) space for each three (3) customer seating spaces	One space per establishment
Hospitals	One (1) space for each three (3) beds	Three spaces per establishment
Hotels/Motels	One (1) space for each guest room	One space per establishment
Industrial Uses	One (1) space for each two (2) employees on the maximum working shift	Two spaces per establishment
Libraries	One (1) space for each five hundred (500) square feet of floor area	One space per establishment

USE OR STRUCTURE	MINIMUM PARKING REQUIREMENTS	OFF-STREET LOADING REQUIREMENTS
Medical or dental clinics	One (1) space for each examining or operating room plus one (1) space for each doctor and employee	None.
Manufactured home parks	Two (2) spaces for each manufactured home	None
Mortuaries & funeral homes	Five (5) spaces for each reposing room	Two spaces per establishment
Multiple family dwellings nursing, convalescent & rest homes	Two (2) spaces for each dwelling until exclusive or required yards	None
Private clubs, lodges, social or fraternal organizations	One (1) space for each one hundred (100) square feet or one (1) space for each three (3) seats at bars or dining tables, whichever is greater	None
Schools	One (1) space for each twenty-five students	One (1) space per school
Service Establishments	One (1) space for each three hundred (300) square feet of floor area	One (1) space per establishment
Retail sales establishments	One (1) space for each three hundred (300) square feet of floor area	One (1) space per establishment
Single family dwellings	Two (2) spaces for each dwelling	None

USE OR STRUCTURE	MINIMUM	OFF-STREET	MINIMUM	OFF-STREET
	PARKING REQUIREMENTS		LOADING REQUIREMENTS	
	unit exclusive of required yards			
Theatres, auditoriums & places of public assembly	One (1) space for each	four (4)	One (1) space per establishment	
	seats of design capacity			
Wholesale & distribution	One (1) space for each	two (2)	Two (2) spaces per establishment	
	employees on the maximum working shift			

Chapter 11.22: Access

Section

11.22.01 Structures to Have Access

11.22.01 Structures to Have Access

Every building hereafter erected or moved shall be on a lot adjacent to a public street, or with access to private streets approved by the Board of Adjustment, and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection and required off-street parking.

Chapter 11.23: Adult Uses

Section

11.23.01	Intent
11.23.02	Setbacks
11.23.03	Required License
11.23.04	Application; Standards for Issuance
11.23.05	Conditions & Regulations Governing Operation; Violation; Penalty
11.23.06	Suspension or Revocation

11.23.01 Intent

In the development and execution of these regulations, it is recognized that there are some uses which, because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances thereby having a deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. These special regulations are itemized in this section. The primary control or regulation is for the purpose of preventing a concentration of these uses in any one area.

11.23.02 Setbacks

1. None of the following uses may be established, operated or maintained within two hundred fifty (250) feet of a residence, a church, a school meeting all the requirements of the Compulsory Education Laws of the State of South Dakota, or a public park.
 - a. Adult bookstore.
 - b. Adult motion picture theater.
 - c. Adult photo studio.
 - d. Adult Entertainment Facility.
 - e. Any use which has as a part of its operation an adult use component including, but not limited to, a restaurant or eating place, a bar, lounge or tavern.
 - f. Any use intended to provide adult amusement or entertainment.

2. Not more than two of the following uses may be established, operated or maintained within one thousand (1,000) feet of each other:
 - a. Adult bookstore.
 - b. Adult motion picture theater.
 - c. Adult photo studio.
 - d. Adult entertainment facility.
 - e. Any use which has as a part of its operation an adult use component including, but not limited to, a restaurant or eating place, a bar, lounge or tavern.
 - f. Any use intended to provide adult amusement or entertainment.
 - g. A bar.
 - h. A liquor store.
3. The 1,000-foot restriction provided for in 11.23.01.2 above may be waived and a conditional use permit issued upon proper application if the Board of Adjustment finds:
 - a. That the proposed use will not be contrary to the public interest or injurious to nearby properties and that the spirit and intent of these regulations will be observed.
 - b. That the proposed use will not enlarge or encourage the development of a 'skid row' area.
 - c. That all applicable regulations will be observed.

11.23.03 Required License

It shall be unlawful for any person to engage in the business of operating an adult use in the City of Clark without first having obtained a license from the City Council.

11.23.04 Application; Standards for Issuance

1. Application for an adult use license shall be made in writing and shall state the following:
 - a. The name, address, telephone number and age of the applicant and the registered agent of the applicant if the applicant is a corporation.

- b. The location of the adult use business.
 - c. The exact nature of the adult use to be conducted and of the proposed place of business and the facilities related thereto.
 - d. A statement by the applicant that he is familiar with the provisions of this article and is in compliance with them.
 - e. A statement of whether the business will be conducted by a manager and, if so, the name, address, telephone number, and age of each such manager.
 - f. A statement that no manager or principal operating the business has been convicted of any offense of prostitution, soliciting for prostitution, or obscenity or public indecency as defined in the South Dakota Compiled Statutes within the last two (2) years, and that the applicant has not had any license for an adult use in any other community revoked within the last two (2) years.
2. Within fifteen (15) days after receipt of an application for an adult use license, the City Council shall investigate the information contained in the application and shall determine the following:
- a. That the premises designated by the applicant as the location of the business are in full compliance with all applicable ordinances of the City, including zoning ordinances.
 - b. That the premises and each manager and employee comply with the provisions of Section 11.23.04.1 as such provisions apply to them.
 - c. That the applicant, each manager and each employee are over twenty-one (21) years of age.
 - d. That no manager or principal operator of the business has been convicted of any offense of prostitution, solicitation for prostitution, or obscenity or public indecency, as defined in the South Dakota Compiled Statutes within the last two (2) years, and that the applicant has not had any license for an adult use revoked within the last two (2) years.
3. If the investigation shows the compliance of the applicant for an adult use license, the premises upon which the business is to be conducted and each manager and employee, if applicable, with each of the requirements established in subsections (1) and (2) of this section, and with the conditions and regulations set forth in Section 11.23.04 within fifteen (15) days after completion of such investigation, the City Council shall issue a license, and upon payment by the applicant of the license fee required under this article, the license shall be issued.
4. If the investigation shows that the applicant for an adult use license, the premises on

which the business is to be conducted, or the managers and employees, if applicable, do not comply with each of the requirements established in subsection (1) of this section, and with the conditions and regulations set forth in Section 11.23.05 within fifteen (15) days after completion of such investigation, the City Council shall notify the applicant in writing that the license has been denied. Such denial shall be the final administrative action of the City with respect to the license application, and shall be subject to the immediate appeal by the applicant to the circuit court.

11.23.05 Conditions & Regulations Governing Operation; Violation; Penalty

1. The following regulations shall govern and control the business of operating an adult use in the City of Clark:
 - a. No person under twenty-one (21) years of age shall be allowed on the licensed premises.
 - b. At all times during the hours of operation there shall be present a manager or other employee of the licensee who shall be not less than twenty-one (21) years of age.
 - c. Upon a change of any manager conducting business for the licensee, the licensee shall, within ten regular business days, give the City Council written notice of such change by actual delivery or by registered or certified mail. The licensee shall, thereafter, as promptly as practicable, but in any event within five (5) regular business days, provide the information concerning the new manager which is required in Section 11.23.04.
 - d. No adult use shall be located on premises for which a license to sell alcoholic liquor has been issued, and no alcoholic liquor shall be permitted on such premises.
 - e. No adult use shall be permitted unless the premise on which such business is located complies with the requirements of the zoning ordinance.
 - f. No licensee or manager under the provisions of this article shall knowingly permit any person to remain in or upon licensed premises who commits any act of public indecency or obscenity as defined in the South Dakota Compiled Statutes.
 - g. No licensee or manager under the provisions of this article shall permit any act of prostitution, solicitation for prostitution or patronization of a prostitute on the licensed premises.
 - h. No sign shall be posted on the licensed premises which depicts, displays or refers to specified anatomical areas or specified sexual activities, as defined in this article.

2. In addition to the requirements established in Section 11.23.05.1, the following regulations shall govern and control the operation of an adult bookstore which offers any films or videotapes for viewing on premises by use of motion picture devices or other such operations means:
 - a. All viewing areas, which shall be defined as the area where a patron or customer would ordinarily be positioned while watching a film or viewing device, shall be visible from a continuous main aisle or public room and shall not be obscured by any curtain, door, wall or other enclosure.
 - b. There shall be no aperture whatsoever in any wall or partition between viewing areas.
 - c. Each viewing area shall be lighted at a minimum level of ten (10) foot candles in all parts thereof.
3. In addition to the requirements established in Section (1) of this section, the following regulations shall govern and control the operation of an adult entertainment facility:
 - a. All performers shall be at least twenty-one (21) years of age.
 - b. All performances, exhibitions or displays shall take place on a platform raised at least two feet from the level of the floor, and located at least ten (10) feet from any patron.
 - c. No performer shall fondle or caress any patron or other performer and no patron shall fondle or caress any performer.
 - d. No patron shall be permitted to pay or give any gratuity to any performer, and no performer shall solicit any pay or gratuity from any patron.
4. It shall be unlawful for any person licensed to engage in the business of operating an adult use within the City to fail to comply with the conditions and regulations set forth in subsections 11.23.04 and 11.23.05 of this section as they are applicable to the licensed business, or to suffer or permit non-compliance with such conditions and regulations on or within the licensed premises. In this regard, any act or omission of an employee shall be deemed the act or omission of the owner if such act or omission occurred either with the authorization, knowledge or approval of the owner or as a result of the owner's negligent failure to supervise the employee's conduct. All conduct occurring while on the premises shall be presumed to be the responsibility of the owner.
5. Any person convicted of a violation of this section shall be subject to a fine pursuant to Section 11.02.02 of this Ordinance.

11.23.06 Suspension or Revocation

Nothing in the terms of this article shall preclude the right of the City Council to suspend or revoke the license of the licensee, as follows:

1. The City Council may temporarily suspend any license issued under the terms of this article when he has reason to believe that the continued operation of a particular licensed premises will immediately threaten the welfare of the community or create an imminent danger of violation of applicable law. In such case, he may, upon the issuance of a written order stating the reason for such determination, and without notice or hearing, order the licensed premises closed for not more than seven (7) days; provided, that the licensee shall be given an opportunity to be heard in a public hearing during the seven (7)-day period, and further provided that if such licensee shall also be engaged in the conduct of other business on the licensed premises, such order shall not be applicable to such other businesses.
2. The City Council may suspend or revoke any license issued under the terms of this article upon ten (10) days notice to the licensee of the time and place of a public hearing, and a public hearing at which the licensee may appear and present evidence, if the City Council determines upon such hearing that the licensee has failed or refused to comply with the terms of this article, has failed or refused to comply with other law applicable to the business of operating an adult use, has knowingly permitted the failure of any manager or employee on the premises to comply with the terms of this article or with other law applicable to the business of operating an adult use, has knowingly furnished false or misleading information on any application required for any license under this section or has suffered or caused another to furnish or withhold such information on his behalf, or has been convicted by a court of competent jurisdiction of a violation of any provision of this section.

Chapter 11.24: Yards

Section

- 11.24.01 Yards, Reduction in Size
 - 11.24.02 Additional Yard Requirements
 - 11.24.03 Exceptions to Yard Requirements
-

No part of a yard or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this ordinance, shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building.

11.24.01 Yards, Reduction in Size

No yard or lot existing at the time of passage of this ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards and lots created after the effective date of this ordinance shall meet at least the minimum requirements established by this ordinance.

11.24.02 Additional Yard Requirements

The following yard requirements must be observed in addition to the yard requirements of the various districts:

1. Except in the “A” and “C1” districts, a corner lot must have a front yard on both streets, provided however that the buildable width of such lot shall not be reduced to less than thirty-eight (38) feet. In no instance shall the yard on the side street of a corner lot be reduced to less than ten (10) feet.
2. On lots in any block fronting on one side of the street between two streets where one or more residences already exist, no building shall hereafter be erected and no existing building shall be reconstructed or altered in such a way that any portion thereof shall be closer to the street line than the average improved building front on that street in that block, but in no case shall the set-back line be less than twelve (12) feet from the front lot line. Provided, however, that on lots in any block fronting one side of a street between two intersecting streets in the above districts, the set-back line may be increased, providing that the owners of three-fourths (3/4) of the front footing on said side of the street in said block shall petition the Board of Adjustment to establish the set-back line at a certain distance named in the petition. If the Zoning Board approves the establishing of the set-back line as petitioned, it may be so established.

3. On through lots and reversed frontage lots, a front yard must be provided on both streets.
 4. Required front yards shall be devoted entirely to landscaped area except for the necessary paving or driveways and sidewalks to reach parking or loading areas in the side or rear yard.
-

11.24.03 Exceptions to Yard Requirements

The following exceptions may be made to the yard requirements:

1. Air conditioning units, sills, chimneys, cornices, and ornamental features may project into a required yard a distance not to exceed twenty-four (24) inches.
2. In commercial and industrial districts, filling station pumps and pump islands may occupy required yards, provided, however, that they are not less than fifteen (15) feet from all lot lines.
3. Any accessory buildings closer than ten (10) feet to a main building shall be considered as part of the main building and shall be provided with the same side and rear yard requirements as the main building.
4. Any accessory buildings may be located in a rear yard but may not occupy more than thirty (30) percent of a rear yard.
5. Fences as regulated by §11.1802.

Chapter 11.25: Erection of More Than One Principle Structure on a Lot

In any district, only one (1) structure housing a permitted or permissible principle use may be erected on a single lot, provided that yard and other requirements are met.

Chapter 11.26: Exceptions to Height Regulations

The height limitation contained in Article II “Schedule of District Regulations” does not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

Chapter 11.27: Private Wastewater Treatment Systems (Septic Tanks)

All existing septic tanks shall be considered non-conforming uses. Any new construction or substantial improvement must be connected to the City's sewer system. All structures within 200 feet of the City's sanitary sewer system shall be connected to the City's sanitary sewer system at the landowner cost.

Chapter 11.28: Manufactured Home Provisions

Section

11.28.01 Modular Homes

11.28.02 Type I and Type II Manufactured Homes

11.28.01 Modular Homes

1. Modular homes shall meet the following regulations.
 - a. Modular homes shall meet or exceed International Building Code (IBC) standards.
 - b. Modular homes will include all off-site constructed homes, which may be transported to the site in one or more section.
 - c. Modular homes shall have more than one thousand (1,000) square feet in ranch style and eight hundred fifty (850) square feet split and be placed on a permanent foundation. The foundation shall be to a depth below the frost line.
 - d. Modular homes shall not have attached running gear and a trailer hitch or the capacity to have attached running gear and trailer hitch.
 - e. Modular homes shall have a minimum of 3/12 roof pitch;
 - f. Have vinyl or wood lap siding material of a type customarily used on site-constructed residences; and
 - g. Have roofing material of a type customarily used on site-constructed residences.
-

11.28.02 Type I and Type II Manufactured Homes

1. For the purpose of this Ordinance, manufactured homes will be regulated by type. Two types of homes are defined under these regulations.
 - a. Type I manufactured home shall:
 - i. Have more than one thousand two hundred (1,200) square feet of occupied space in a double section or larger multi section unit.
 - ii. The running gear and hitch have been removed.

- iii. Has been anchored to a foundation and permanent footing. The foundation shall be (a) an approved wood basement constructed of 2 x 6 framework and treated with water resistant materials; or (b) a foundation shall be constructed with eight (8) inches poured concrete or concrete block. The footing to be a minimum of eight (8) inches thick by sixteen (16) inches wide poured concrete with top of footing to be six (6) inches below grade.
 - iv. Prior to placement of a home on the foundation, it must be inspected and approved by the Administrative Official.
 - v. Have a gabled roof with a pitch of at least 2/12 feet.
 - vi. Have vinyl or wood lap siding material of a type customarily used on site-constructed residences.
 - vii. Have roofing material of a type customarily used on site-constructed residences.
 - viii. The age of the manufactured house may not exceed three years from the date of manufacture.
- b. Type II manufactured home shall:
- i. Have more than seven hundred (700) square feet of occupied space in a single, double, expando or multi-section unit.
 - ii. Utilize a permanent perimeter enclosure in accordance with approved installation standards, as specified in 11.28.02.b (skirted).
 - iii. Be anchored to the ground, in accordance with manufacturer's specifications, or as prescribed by the TR-75, issued June 1972, by the U.S. Department of Defense or by the ANTI/NFPA 501A Standards.
 - iv. Have siding materials of a type customarily used on site-constructed residences.
 - v. Have roofing materials of a type customarily used on site-constructed residences.
 - vi. The age of the manufactured house may not exceed ten years from the date of manufacture.

- vii. Be placed onto a support system. In accordance with approved installation standards, as specified in Section 11.28.02.

2. Installation standards

- a. Permanent Perimeter Enclosure as required for Type I and II Manufactured Homes -Those manufactured homes designated in this Ordinance, as requiring a permanent perimeter enclosure must have footings and crawl space or basement walls. The space between the floor joints of the home shall be completely enclosed with the permanent perimeter enclosure (except for required openings).
- b. Foundation Siding/Skirting

All manufactured homes without a permanent perimeter enclosure shall have an approved foundation siding/skirting enclosing the entire perimeter of the home.
- c. Support System
 - i. All HUD-Code manufactured home of the type I classification shall be installed with load bearing foundations in conformance with the manufacturer's installation specifications.
 - ii. Type II manufactured homes not placed on a permanent foundation shall be installed on a support system in conformance with the manufacturer's installation specifications or with the support systems regulations in the ANTI/NFPA 501A 1977 installation standards.

3. Nonconforming Homes

A manufactured home placed and maintained on a tract of land and deemed to be a legal nonconforming use prior to the adoption of this Ordinance shall continue to be a legal nonconforming use. If the nonconforming use is discontinued for a period of one year, the land thereafter must be used in conformity with all provisions of this Ordinance.

4. Replacement of Nonconforming Homes

(See 11.28.02.6)

5. Structural Alteration

Due to its integral design, any structural alteration or modification of a

manufactured home after it is placed on the site must be approved by the Administrative Official .

Chapter 11.29: Flood Damage Prevention Regulations

Section

11.29.02	Statutory Authorization, Findings of Fact, Purpose and Objections
11.29.04	Definitions
11.29.06	General Provisions
11.29.08	Administration
11.29.10	Provisions for Flood Hazard Reduction

11.29.02 Statutory Authorization, Findings of Fact, Purpose and Objectives

(1) Statutory Authorization

The Legislature of the State of South Dakota has in SDCL Title 9 delegated the responsibility of local government units to adopt regulations designed to minimize flood losses. Therefore, the City Council of the City of Clark, South Dakota, does ordain as follows:

(2) Findings of Fact

- (a) The flood hazard areas of the City of Clark are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.
- (b) These flood losses are created by the cumulative effect of obstructions in flood plains which cause an increase in flood heights and velocities, and by the occupancy of flood hazards areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, flood-proofed or otherwise protected from flood damage.

(3) Statement of Purpose

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

- (a) Protect human life and health;
- (b) Minimize expenditure of public money for costly flood control projects;
- (c) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

- (d) Minimize prolonged business interruptions;
 - (e) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
 - (f) Help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize future flood blight areas; and,
 - (g) Insure that potential buyers are notified that property is in a flood area.
- (4) Methods of Reducing Flood Losses

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

- (a) Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
- (b) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (c) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
- (d) Control filling, grading, dredging and other development which may increase flood damage;
- (e) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

11.29.04 Definitions

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

“Alluvial Fan Flooding” means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport and deposition; and unpredictable flow paths.

“Apex” means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

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

“Area of Special Flood Hazard” is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation of the FIRM, Zone A usually is refined into Zones A, AE, AH, AO, A1-99, VO, V1-30, VE or V.

“Base Flood” means the flood having a one percent chance of being equalized or exceeded in any given year.

“Basement” means any area of the building having its floor sub-grade (below ground level) on all sides.

“Critical Feature” means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

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

“Elevated Building” means a non-basement building (i) built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, “elevated building” also includes a building elevated by means of fill or solid foundation perimeter walls with opening sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-30, VE, or V, “elevated building” also includes a building otherwise meeting the definition of “elevated building,” even though the lower area is enclosed by means of breakaway walls if the breakaway walls met the standards of Section 60.3(e)(5) of the National Flood Insurance Program regulations.

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

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

“Expansion To An Existing Manufactured Home Park Or Subdivision” means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

“Flood Or Flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (a) The overflow of inland or tidal waters.
- (b) The unusual and rapid accumulation or runoff of surface waters from any source.

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

“Flood Insurance Study” is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, water surface elevation of the base flood, as well as the Flood Boundary-Floodway Map.

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

“Floodplain Management” means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

“Floodplain Management Regulations” means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

“Flood Protection System” means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within a community subject to a “special flood hazard” and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

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

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

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

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

“Historic Structure” means any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
- (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

- i. By an approved state program as determined by the Secretary of the Interior or;
- ii. Directly by the Secretary of the Interior in states without approved programs.

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

“Lowest Floor” means the lowest floor of the lowest enclosed are (including basement). An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building’s lowest floor; **provided** that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood insurance Program regulations.

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

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

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

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

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

“Recreational Vehicle” means a vehicle which is:

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

“Start of Construction” (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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

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

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

- (a) Any project to improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions; or
- (b) Any alteration of a “historic structure” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.”

“Variance” is a grant of relief to a person from the requirement of this ordinance when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this ordinance. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations.)

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

“Water Surface Elevation” means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

11.29.06 General Provisions

(1) Lands to Which this Ordinance Applies

This ordinance shall apply to all areas of special flood hazard within the jurisdiction of the City of Clark.

(2) Basis for Establishing the Areas of Special Flood Hazard

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, “The Flood Insurance Study for the City of Clark,” dated July 1, 1998 with accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway Maps (FIRM and FBFM) and any revisions thereto are hereby adopted by reference and declared to be a part of this ordinance.

(3) Establishment of Development Permit

A Development Permit shall be required to ensure conformance with the provisions of this ordinance.

(4) Compliance

No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this ordinance and other applicable regulations.

(5) Abrogation and Greater Restrictions

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(6) Interpretation

In the interpretation and application of this ordinance, 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.

(7) Warning and Disclaimer or Liability

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

11.29.08 Administration

(1) Designation of the Floodplain Administrator

The Zoning Officer of the City of Clark is hereby appointed the Floodplain Administrator to administer and implement the provisions of this ordinance and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.

(2) Duties & Responsibilities of the Floodplain Administrator

- (a) Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance.
- (b) Review permit application to determine whether proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.

- (c) Review, approve or deny all applications for development permits required by adoption of this ordinance.
 - (d) Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
 - (e) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.
 - (f) Notify, in riverine situations, adjacent communities and the State Coordinating Agency which is the South Dakota Department of Public Safety/Emergency Management, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
 - (g) Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
 - (h) When base flood elevation data has not been provided in accordance with Section 11.2706(2), the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State or other source, in order to administer the provisions of Section 11.2710.
- (3) Permit Procedures
- Application for a Development Permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:
- (a) Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
 - (b) Elevation in relation to mean sea level to which any nonresidential structure shall be flood-proofed;
 - (c) A certificate from a registered professional engineer or architect that the

nonresidential flood-proofed structure shall meet the flood proofing criteria of Section 11.2710(2)(b).

- (d) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development
- (e) Maintain a record of all such information in accordance with Section 11.2708(2)(a).

Approval or denial of a Development Permit by the Floodplain Administrator shall be based on all of the provisions of this ordinance and the following relevant factors:

- (a) The danger to life and property due to flooding or erosion damage;
- (b) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (c) The danger that materials may be swept onto other lands to the injury of others;
- (d) The compatibility of the proposed use with existing and anticipated development;
- (e) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (f) The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
- (g) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
- (h) The necessity to the facility of a waterfront location, where applicable;
- (i) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- (k) The relationship of the proposed use to the comprehensive plan for that area.

(4) Variance Procedures

- (a) The appeal board as established by the community shall hear and render judgment on requests for variances from the requirements of this ordinance.
- (b) The Appeal Board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.
- (c) Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.
- (d) The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
- (e) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this ordinance.
- (f) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Section 11.2708(3)(b).
- (g) Upon consideration of the factors noted above and the intent of this ordinance, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this ordinance Section 11.2702(3).
- (h) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (i) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic character and design of the structure.
- (j) Prerequisites for granting variances:
 - (1) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

- (2) Variances shall only be issued upon:
 - (I) Showing a good and sufficient cause;
 - (II) A determination that failure to grant the variance would result in exceptional hardship to the applicant, and
 - (III) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- (3) Any application to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- (4) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
 - (I) The criteria outlined in Section 11.2708(4)(a)-(i) are met; and,
 - (II) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

11.29.10: Provisions for Flood Hazard Reduction

- (1) **General Standards** - In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:
 - (a) All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 - (b) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
 - (c) All new construction or substantial improvements shall be constructed with materials resistant to flood damage;

- (d) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
 - (e) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
 - (f) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,
 - (g) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- (2) **Specific Standards** - In all areas of special flood hazards where base flood elevation data has been provided as set for in Section 11.2706(2), Section 11.2708(2)(h), or Section 11.2710(3)(c), the following provisions are required:
- (a) **Residential Construction** – new construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to or above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection as proposed in Section 11.2708(3) is satisfied.
 - (b) **Nonresidential Construction** – new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to or above the base flood level or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components have the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are flood-proofed shall be maintained by the Floodplain Administrator.
 - (c) **Manufactured Homes** – Require that all manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the

purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

(3) Standards for Subdivision Proposals

- a. All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with Section 11.2702 (2), (3), and (4) of this ordinance.
- b. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Development Permit requirements of Section 11.2706(3); Section 11.2708(3); and the provisions of Section 11.2710 of this ordinance.
- c. Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to Section 11.2706(2) or Section 11.2708(2)(h) of this ordinance.
- d. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
- (e) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

Chapter 11.30: Utility Easements

No building or addition thereto shall be erected over or across any existing public utility or upon any platted easement.

Chapter 11.31: Moved in Buildings

It shall be unlawful to move any house or other building onto any lot or to any new location within the City unless and until a permit to do so has been obtained from the Administrative Official. No permit shall be issued until the following requirements are met.

- a. The fee for said permit as prescribed in Section 11.14.03 shall have been paid.
- b. That it shall have been shown to the satisfaction of the Administrative Official that the said house or other building complies with the gas, plumbing, electrical and construction requirements of the City of Clark.
- c. That the work is to be completed within twelve (12) months after the permit has been issued by the Administrative Official.
- d. The applicant shall also file with the City Finance Officer a sufficient bond so that will indemnify the City and any public utility for any damage done to any property, street, alley or public grounds, and to guarantee that the building will be placed on an adequate foundation, will be attached to the City electrical, water and sewer service where available, that the property on which said building is to be located will be properly landscaped and seeded in accordance with requirements of the Administrative Official, said bond to be in a minimum of five hundred dollars (\$500).
- e. No building shall be moved other than during the period from daylight to sundown. Before any permit is granted under this section, the applicant must furnish proof that all taxes legally assessed against the property have been paid. If a building or structure is to be moved onto any lot within the city, the Administrative Official shall have the power to deny the granting of a moving permit on the grounds that the intended use of the structure or location thereof is contrary to the provisions of this chapter.
- f. Any building, which is not newly constructed to be used for first occupancy, shall also meet the following minimum requirements to obtain a permit.
 - The written consent of all property owners owning property immediately adjacent (excluding streets and alleys) to the proposed building site and the consent of more than fifty (50) percent of the number of owners of property within 150 feet (excluding streets and alleys) of said proposed location has been received.

Chapter 11.32: Permanent Foundations Required for Dwellings

No dwelling shall be constructed, installed, or moved into the area under the jurisdiction of these regulations, unless said dwelling is constructed upon, installed on or moved onto a permanent foundation, as defined in these regulations. Exempted from this requirement are manufactured homes in an approved manufactured home park, and Type II manufactured homes allowed by conditional use, provided said manufactured homes are anchored with tie downs to prevent the manufactured home from dangerous motion during high wind or other weather related events.

Article V: Definitions

Chapter 11.33: General Terms

For the purpose of this Ordinance, certain terms or words used herein shall be interpreted as follows, except where the context would plainly indicate a different intent:

The present tense includes the future tense;

The singular number includes the plural;

The plural number includes the singular;

The word **“lot”** includes the words “plot” or “parcel”;

The word **“shall:** is mandatory, the word **“may”** is permissive;

The words **“used:** or **“occupied”** include the words intended, designed, or arranged to be used or occupied.

Any word not herein defined shall be as defined in any recognized Standard English dictionary.

Accessory Use or Structure. As applied to use or structure, means customarily subordinate or incidental to, and on the premises of such use or structure.

Adult Bookstores. An establishment having, as a substantial portion of its stock in trade, books, magazines, films or videotapes for sale or viewing on the premises by use of motion picture devices or other coin-operated means, and other periodicals which are distinguished by their emphasis on matter depicting, describing or relating to specified Sexual Activities or Specified Anatomical Areas as such terms are defined in this section, or an establishment with a segment or section devoted to the sale or display of such material. Adult bookstores may alternatively or in conjunction with the above stock in trade sell undergarments and other clothing designed for the display of Specified Anatomical Areas or for the enhancement of Specified Sexual Activities. Further, an adult bookstore may alternatively or in conjunction with the above stock in trade sell prosthetic devices, dolls, candles, vibrators and other objects for sexual gratification which take the form of Specified Anatomical Areas and for the purpose of enhancing Specified Sexual Activities.

Adult Entertainment Facility. Means an establishment offering to its patrons, as entertainment, any exhibition or display or any theatrical or other live performances which include topless or go-go dancers, exotic dancers, strippers, male or female impersonators, or similar entertainers, or any persons singing, reading, posing, modeling, or serving food or beverages, where the exhibition, performance, display or dance is

intended to sexually arouse the entertainer or the patrons, or where the attire of persons involved is such as to expose specified anatomical areas, as defined in this section.

Adult Motion Picture Theater. An enclosed building, regardless of its seating capacity which is used to present for public view on the premises, films, movies, previews, trailers or advertisements which are distinguished by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in this section.

Adult Photo Studio. An establishment which, on payment of a fee, provides photographic equipment and/or models for the purpose of photographing “specified anatomical areas”, as herein defined.

Adult Use. The term “adult use” shall include adult entertainment facility, adult bookstores, adult motion picture theaters, and adult photo studios as defined in this section.

Airport. A place where aircraft can land and takeoff, usually equipped with hangers, facilities for refueling and repair, and various accommodations for passengers, including heliports.

Animal Unit. One animal unit is equivalent to one (1) beef cow, steer, feeder or fat beef animal, 0.5 horse; 0.5 dairy cow; 1.5 swine; 6.5 sheep; 33 hens, cockerels, capons, broilers, or ducks; and 10 geese or turkeys.

Bar/lounge. An establishment that is licensed to sell alcoholic beverages by the drink.

Basement. A Basement has more than one-half (1/2) of its height below grade. A basement is counted as a story for the purpose of height regulations if subdivided and used for dwelling purposes.

Bed and Breakfast (B & B's). A private single-family residence, which is used to provide, limited meals and temporary accommodations for a charge to the public. Such establishments should be located where there will be minimal impact on surrounding residential properties and should comply with the following conditions:

1. B & B's shall be limited to residential structures with an overall minimum of one thousand eight hundred (1,800) square feet of floor. Preference will be given to structures with historic or other unique qualities.
2. They shall be in compliance with applicable state laws including registration with the South Dakota Department of Health, maintaining a guest list, and providing a smoke detector in each sleeping room.
3. Accessory use signs shall be based on similar requirements for a home occupation permit and shall not be more than one (1) square foot in area.

4. Such uses shall be an incidental use with an owner occupied principal dwelling structure provided that not more than four bedrooms in such dwelling structure shall be used for such purpose.
5. Off-street parking requirements shall be one space per guestroom and shall be in addition to parking requirements for the principal use. Off-street parking shall not be located in a required front or side yard and screening shall be required when adjacent to residentially used property.
6. The length of stay shall not exceed fourteen (14) days during any one hundred twenty (120) day consecutive period.
7. Meals shall be limited to breakfast, which is prepared in a common facility (household kitchen). Meals may be served only to overnight registered guests and cooking is not permitted in the sleeping rooms.
8. The building shall meet all building codes and zoning requirements. A site plan showing the location of guest parking spaces and floor plan showing a location of the sleeping rooms, lavatories, and bathing facilities, and kitchen shall be submitted with application.

Boarding House. A building other than a motel, hotel or restaurant, where lodging and meals are provided for three (3) or more persons, but not exceeding ten (10) persons, and not open to public or transients.

Buildable Area. That portion of the lot that can be occupied by the principal use, thus excluding the front, rear and side yards.

Building. The word “building” includes the word “structure” designed or intended for the support, enclosure, shelter, or protection of persons, animals, chattels, or property of any kind and is a structure which is entirely separated from any other structure by space or by walls in which there are no communicating doors or windows or similar openings.

Building Height. The vertical distance from the established average sidewalk grade or street grade, or finished grade at the building line, whichever is the highest, to the highest point of the building.

Building Line. Is a line on the lot running parallel to the required horizontal distance from the nearest property line.

Building, Principal. A non-accessory building in which is conducted the principal use of the lot on which it is located.

Campground. Shall mean a plot of ground for public use upon which two or more campsites are located, established, maintained, advertised, or held out to the public, to be

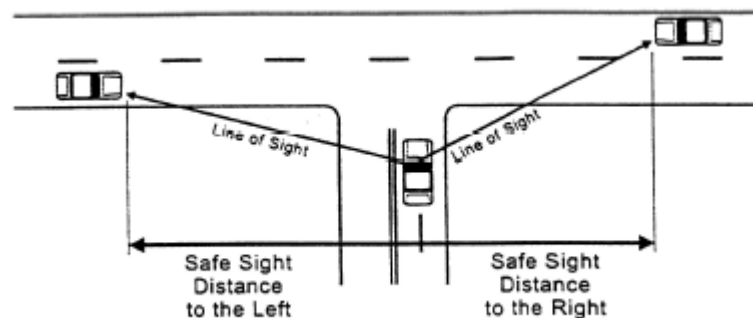
a place where camping units can be located and occupied as temporary living quarters. Campgrounds for tent trailers and recreational vehicles shall be sited with consideration for access to the property. The campground shall be designed to minimize the impact from adjacent major thoroughfares.

Car Wash. A facility used to clean the exterior, and sometimes the interior, of automobiles.

Church. A building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose. Includes synagogue, temple, mosque, or other such place for worship and religious activities

City Council. The governing body of the City of Clark.

Clear View Triangle. A triangular-shaped portion of land established at street intersections and ingress/egress points in which there are restrictions on things erected, placed or planted which would limit or obstruct the sight distance of motorists entering or leaving the intersection (see illustration below).



Commercial Storage, Mini-Storage Facilities. Individual locker storage facilities (frequently with some accessory outdoor vehicle/boat storage) primarily for the benefit of residential or small business users in which are kept household items, business records, vehicles, recreational equipment, etc.

Comprehensive Plan. The adopted long-range plan intended to guide the growth and development of The City of Clark.

Conditional Use. A use that would not be appropriate generally or without restriction throughout the zoning district by which if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted by the Board of Adjustment when specific provision is made in this ordinance. Conditional uses are subject to evaluation and approval by the Board of Adjustment and are administrative in nature.

Contractor Shops And Storage Yards. Those facilities to include structures and land areas where the outdoor storage of equipment and supplies used for various types of off-site construction are stored. Examples of equipment and supplies include but are not limited to the following – road construction, building construction, gravel operations, and general contracting services.

Convenience Store. Any retail establishment offering for sale pre-packaged food products, household items, and other goods commonly associated with the same, at which a customer typically purchases only a few items during a short visit.

Day Care Center. Any operation which provides child care services.

Day Care Center, Commercial. A day care center which is operated in a structure which is not a dwelling unit. To be considered a Day Care Center under these regulations, such operation must be licensed by the State of South Dakota.

Density. The number of families, individuals, dwelling units, or housing structures per unit of land.

Development. The carrying out of any surface or structure construction, reconstruction or alteration of land use or intensity of use.

Dwelling, Farm. Any dwelling located on a farming operation, which is used or intended for use as a residence by the farm's owner, relative of the owner, or a person employed on the premises.

Dwelling, Multiple-Family. A residential building designed for or occupied by three (3) or more families, with the number of families in residence not exceeding the number of household units provided.

Dwelling, Single-Family. A detached residential dwelling building, other than a manufactured home but to include modular homes, containing one (1) household unit.

Dwelling, Two-Family. A detached residential building containing two household units, designed for occupancy by not more than two (2) families

Dwelling Unit - One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities

Engineer. Means any engineer licensed by the State of South Dakota.

Family. One (1) or more persons related by blood, marriage, or adoption occupying a dwelling unit as a single household unit. A family shall not include more than three (3) adults who are unrelated by blood or law. This definition shall not include foster families as regulated by the State of South Dakota.

Farm. A bonafide business for the production of agricultural products and the incidental use of horses, dogs or other animals and other similar operations; but specifically excluding greenhouses, horticultural nurseries, and kennels and other similar commercial operations.

Feedlot. A feedlot is a lot, yard, corral, building or other area where animals have been, are, or will be stabled or confined for a total of forty-five (45) days or more during any twelve (12) month period, and where crops, vegetation, forage growth, or post harvest residues are not sustained over any portion of the lot or facility.

Fence. A structure used as a boundary, screen, separation, means of privacy, protection or confinement, and is constructed of wood, plastic, metal, wire mesh, masonry or other similar material and is used as a barrier of some sort.

Filling Station. Buildings and premises where gasoline, oil, grease, batteries, tires, and automobile accessories may be supplied and dispensed at retail, but where the following activities are not carried out as a normal part of doing business:

1. Major mechanical work, involving removal of the head or crankcase.
2. Auto bodywork, including straightening of auto body parts.
3. Painting or welding of any automobile parts.
4. Storage of automobiles not in operating condition.
5. Any other automobile work which involves noise, glare, fumes, smoke, or other characteristics not normal found at places which sell gasoline at retail.

Garage, Private. An accessory building used for the storage of not more than four (4) vehicles owned and used by the occupant of the building to which it is necessary. Vehicles include cars, pickups, and boats, but not commercial vehicles.

Garage, Public. A building or portion thereof, other than a private or storage garage, designed or used for equipping, servicing, repairing, hiring, selling, storing, or parking motor-driven vehicles. The term repairing shall not include an automobile body repair shop nor the rebuilding, dismantling, or storage of wrecked or junked vehicles.

Garage, Storage. Any building or premises, used for housing only motor-driven vehicles, other than trucks and commercial vehicles.

Grade. The finished grade of premises improved by a building or structure is the average

natural elevation or slope of the surface of the ground within fifty (50) feet of the building or structure.

Greenhouse. A structure, which may consist of glass, plastic or other opaque surfaces, in which temperature and humidity can be controlled for the cultivation or protection of plants.

Group Home. A supervised living or counseling arrangement in a family home context providing for the twenty-four (24) hour care of children or adults.

Home Occupation. A business, profession, occupation, or trade conducted for profit and located entirely within a dwelling, which use is accessory, incidental, and secondary to the use of the dwelling for residential purposes and does not change the essential residential character or appearance of such dwelling provided that:

1. No person other than members of the family residing on the premises shall be engaged in such occupation.
2. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinated to its use for residential purposes by its occupants, and not more than twenty-five percent (25%) of the floor area of the dwelling unit shall be used in the conduct of the home occupation.
3. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign, not exceeding one (1) square-foot in area, non-illuminated, and mounted flat against the wall of the principal building.
4. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.
5. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood and any need for parking generated by the conduct of such home occupation shall be met off the street.
6. Notwithstanding the preceding standards, any operation which provides care for more than twelve (12) children in a twenty-four 24 hour period, shall not be considered a home occupation.

Hotel or Motel. A building designed for occupancy as the more or less temporary abiding place of individuals who are lodged with or without meals, in which there are four (4) or more guest rooms, and which is open to the public and transients.

Household Unit. One (1) room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities.

Junk Yard. An area of land with or without buildings used for, or occupied by, a deposit, collection, or the storage outside of a completely enclosed building, or used and/or discarded materials such as waste paper, rags or scrap metal, used building materials, home furnishings, machinery, vehicles, or parts thereof, with or without the dismantling, processing, salvage, sale, or other use or disposition of the same.

Kennel. Any premise or portion thereon where more than three (3) adult dogs, cats, or other household pets are raised, trained, boarded, harbored, or kept for remuneration. Veterinary clinics, animal hospitals and animal shelters are specifically excluded.

Light Manufacturing. Those manufacturing processes which are not obnoxious due to dust, odor, noise, vibration, pollution, smoke, heat or glare. These commercial and industrial uses are characterized by generally having all aspects of the process carried on within the building itself.

Loading Space, Off-Street. Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking space.

Lot. A parcel or tract of land having specific boundaries and which has been recorded in the Register of Deeds office. A lot shall include only one (1) principal building together with its accessory buildings; open spaces and parking spaces required by these regulations and shall have its principal frontage upon a road or other approved access.

Lot Frontage. The front of a lot shall be construed to be the portion nearest the street. For the purposes of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage. Minimum frontage for lots located on cul-de-sacs shall be determined as the average of the widest and narrowest width of the lot.

Lot Line. A line of record bounding a lot which divides one lot from another lot or from a public or private street or any other public space.

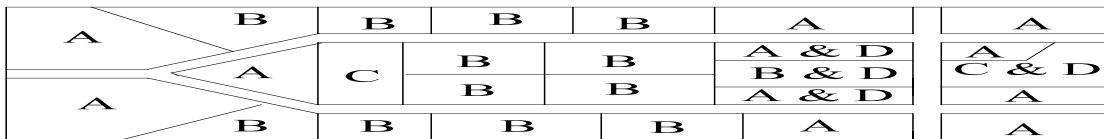
Lot Measurements.

1. **Depth:** The average mean horizontal distance between the front and rear lot lines.
2. **Width:** The width of a lot at the front yard line.

3. **Area:** The lot area is the area of a horizontal plane in square feet or acres within the lot line.

Lot of Record. A lot which is part of a subdivision recorded in the office of the Brookings County Register of Deeds, prior to the adoption of this ordinance (May 19, 1997).

Lot Types. See figure below:



1. **Corner Lot.** A lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than one hundred thirty-five (135) degrees.
2. **Interior Lot.** A lot other than a corner lot with only one frontage on a street.
3. **Through Lot.** A lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots.
4. **Reversed Frontage Lot.** A lot on which the frontage is at right angles or approximately right angles (interior angle less than one hundred thirty-five (135) degrees) to the general pattern in the area. A reversed frontage lot may also be a corner lot (A-D in the diagram), and interior lot (B-D) or through lot (C-D).

Manufactured Home. See Section 4.12.02.

Manufactured Home Park. See Section 2.07.05.

Modular Home. See Section 4.12.01.

Moved-in Building. A building that previously existed on a lot of different location relocated for use as a residence, outbuilding, commercial, industrial or any building used in relation to these uses shall be recognized as a moved-in building.

Non-conforming Building/Use. Any building or land or use of land, lawfully occupied

by a use at the time of passage of this ordinance or amendment which does not conform after the passage of this ordinance or amendment with the use regulation of the district in which it is situated.

Non-standard Use. The category of nonconformance consisting of lots occupied by buildings or structures or uses which existed immediately prior to the effective date of this ordinance which fail to comply with any of the following: minimum lot requirements for the area, density, width, front yard, side yard, rear yard, height, unobstructed open space, or parking for the district in which they are located, even though the use of the premises conforms to the permitted uses within the district as set out in the provisions of this ordinance.

Outdoor Advertising Business. Provisions of outdoor displays or display space on a lease or rental basis only.

Parking Space, Off-Street. An area, enclosed or unenclosed, sufficient in size to store one (1) automobile, not less than ten (10) feet wide and twenty (20) feet long, together with a driveway connecting the parking space with a street or alley and permitting ingress and egress of an automobile.

Permit. A permit required by these regulations unless stated otherwise.

Permitted Use. Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

Person. In addition to an individual, includes the following terms: "firm", "association", "organization", "partnership", "trust", "company", or "corporation".

Personal Services. These establishments offer a wide range of personal services (laundry, hair care, etc.).

Planning Commission. The members appointed by the City Council to serve in an advisory capacity on planning and zoning matters.

Plat. The maps, drawings, or charts on which a subdivider's plan of subdivision is legally recorded.

Principal Use. The primary use to which the premises are devoted.

Recreational Vehicle. A motor home, travel trailer, truck camper, or camping trailer, with or without motor power, designed for human habitation for recreational or emergency occupancy. A recreational vehicle does not include manufactured homes.

Retail Sales and Trade. Establishments engaged in selling products, goods or merchandise to the general public for personal or household consumption; and establishments engaged in providing services or entertainment to the general public

including eating and drinking establishments, hotels, motels, repair shops, indoor amusement, copying services, health, professional, educational, and social services, and other miscellaneous services.

Sale or Auction Yard/Barn. A place or building where the normal activity is to sell or exchange livestock. Livestock normally in yard or farm for one day during sale or auction.

Service Station, Automobile. Any building or premise which provides for the retail sale of gasoline, oil, tires, batteries, and accessories for motor vehicles and for certain motor vehicle services, including washings, tire changing, repair service, battery service, radiator service, lubrication, brake service, wheel service, and testing or adjusting of automotive parts. Automobile repair work may be done at a service station provided that no rebuilding of engines, spray paint operations, or body or fender repair is permitted. Gasoline pumps and gasoline pump islands shall be located more than twelve (12) feet from the nearest property line.

Setback. The setback of a building is the minimum horizontal distance between the front line or street line and the nearest edge of any building or any projection thereof, except cornices and unenclosed porches, and entrances vestibules and window bays projecting not more than three and one-half (3 1/2) feet from the building and not more than fifty (50) square feet in area, and which do not extend above the first story of the building.

Sign. Any object, device or structure, or part thereof, situated outdoors or visible from outdoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination, or projected images. This definition does not include:

1. Signs not exceeding one (1) square foot in area and bearing only property numbers, post box numbers, names of occupants of premises, or other identification of premises not having commercial connotations.
2. National or state Flags or their emblem or insignia, interior window displays or athletic scoreboards.
3. Legal notices, identification, information, or directional signs erected or required by governmental bodies.
4. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts, or moving light.
5. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.

Sign (Off-Premise). A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered at a location other than the premises on which the sign is located.

Sign (On-Premise). A sign which directs attention to a business or profession conducted, or to a commodity or service sold, offered or manufactured, or to an entertainment offered on the premises where the sign is located.

Sleeping Quarters. A room or an area contained within a dwelling unit utilized for the purpose of sleep.

Specified Anatomical Areas means.

1. Less than completely and opaquely covered human or animal genitals, pubic region, or pubic hair, buttocks; and female breasts below a point immediately above the top of the areola; and
2. Genitals of humans or animals in a discernible turgid state, even if completely opaquely covered.

Specified Sexual Activities means.

1. Human or animal genitals in the state of sexual stimulation or arousal.
2. Acts or representations of acts of human or animal masturbation, sexual intercourse or sodomy, bestiality, oral copulation or flagellation.
3. Fondling or erotic touching of human or animal genitals, pubic region, buttock or female breast.
4. Excretory functions as part of or in connection with any activities set forth in an Adult Bookstore or “Adult Entertainment Facility”.

Stable. A building for the shelter and feeding of domestic animals, especially horses and cattle.

Stable, Commercial. A building for the shelter and feeding of domestic animals, especially horses and cattle where such domestic animals are raised, trained, boarded, harbored, or kept for remuneration. Veterinary clinics, animal hospitals and animal shelters are specifically excluded.

Street. A right-of-way, dedicated to public use, which affords the principal means of access to abutting property. Also may be referred to as road or highway. The term street shall include and apply to any public way except alleys.

1. Arterial Street. A street designated as such upon the Major Street Plan of the Comprehensive Land Use Plan of the City of Clark.
2. Collector Street. A street designated as such upon the Major Street Plan of the Comprehensive Land Use Plan of the City of Clark.

3. **Local Street.** Any street which is not an arterial street or collector street.

Street Line. The line between the public right-of-way and private property.

Structure. Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on or below the ground. Among other things, structures include buildings, manufactured homes, walls, fences, swimming pools, signs, ponds and lagoons.

Structure, Temporary. Anything constructed or erected, or placed, the use of which requires temporary location on the ground or attached to something having a temporary location on the ground.

Subdivision. The division of a parcel of land into two or more lots or parcels for the purpose of transfer of ownership or building developments (whether immediate or future). This term includes resubdivision and, when appropriate to the context, is related to the process of subdividing or to the land subdivided.

Substantially Completed. This term refers to the amount of work required to be completed in association with a building permit issued by the City. In order to be substantially complete, seventy-five (75) percent of the project for which a building permit has been issued is required to be finished.

Telecommunications Facilities. Means any cables, wires, lines, wave guides, antennas, and any other equipment or facilities associated with the transmission or reception of communications which a Person seeks to locate or has installed upon or near a Tower or Antenna Support Structure. However, Telecommunications Facilities shall not include:

1. Any satellite earth station antenna two (2) meters in diameter or less which is located in an area zoned industrial or commercial; or
2. Any satellite earth station antenna one (1) meter or less in diameter, regardless of zoning category.

Trailer. Means any of the following:

1. **Travel Trailer.** A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational, and vacation uses. The trailer shall be permanently identified "travel trailer" by the manufacturer of the trailer and, when factory equipped for the road, it shall have a body width not exceeding eight (8) feet, and a body length not exceeding thirty (30) feet.
2. **Pick-up Coach.** A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation and vacation.

3. **Motor-Home.** A portable, temporary dwelling to be used for travel, recreation and vacation, constructed as an integral part of a self-propelled vehicle.

4. **Camper Trailer.** A canvas, folding structure, mounted on wheels and designed for travel, recreation and vacation use.

Twin Homes. A two-family dwelling which has a common wall and is platted into two (2) separate lots.

Variance. A variance is a relaxation of the terms of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. As used in this ordinance, a variance is authorized only for height, area, and size of structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of non-conformities in the zoning district or uses in an adjoining zoning district.

Waste. Any garbage, refuse, manure, 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, mining and agricultural operations, and from community activities, but does not include 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 Section 402 of the Federal Water Pollution Control Act, as amended to January 1, 1986, or source, special nuclear or by-product materials as defined by the Atomic Energy act of 1954, as amended.

Wholesale Merchandising/Trade. Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

Wind Energy Conversion System (WECS). Any mechanism or device designed for the purpose of converting wind energy into electrical or mechanical power to be used on the site where said power is generated.

Yard. A required open space other than a court unoccupied and unobstructed by any structure or portion of a structure from thirty (30) inches above the general ground level of the graded lot upward, provided, however, that fences, walls, poles, posts, and other customary yard accessories, ornaments, and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility.

Front Yard. A yard extending between side lot lines across the front of a lot adjoining a public right-of-way.

In the case of corner lots which do not have reversed frontage, a front yard of the required

depth shall be provided in accordance with the prevailing yard pattern, and a second front yard of half the depth required generally for front yards in the districts shall be provided on the other frontage.

In the case of reversed frontage corner lots, a front yard of the required depth shall be provided on either frontage, and a second front yard of half the depth required generally for front yards in the district shall be provided on the other frontage.

In the case of corner lots with more than two frontages, the Administrative Official shall determine the front yard requirements, subject to the following limitations:

- a. At least one (1) front yard shall be provided having the full depth required generally in the district; and
- b. No other front yard on such lot shall have less than half the full depth required generally.

Depth of required front yards shall be measured at right angles to a straight line joining the foremost points of the side lot lines. The foremost point of the side lot line, in the case of rounded property corners at street intersections, shall be assumed to be the point at which the side and front lot lines would have met without such rounding. Front and rear yard lines shall be parallel.

Yard, Rear. A yard extending across the rear of the lot between inner side yard lines. In the case of through lots and corner lots, there will be no rear yards, but only front and side yards.

Yard, Side. A yard extending from the rear line or the required front yard to the rear lot line or in the absence of any clearly defined rear lot line to the point on the lot farthest from the intersection of the lot line involved with the public street. In the case of through lots and corner lots, side yards remaining after full and half-depth front yards have been established shall be considered side yards.

Zoning District. A section of the City for which regulations governing the use of land, the construction and use of buildings and the occupancy of premises are hereby made.

Title 12 – General Provisions

Chapter

12.02	Title and Numbering
12.04	Definitions
12.06	General Provisions
12.99	Penalty

Chapter 12.02: Title and Numbering

Section	
12.0202	Title of Ordinance
12.0204	Numbering System
12.0206	Numbering of Amendments and Additions

12.0202 Title of Ordinance

This Ordinance may be cited as the Clark Municipal Code.

12.0204 Numbering System

Each section number is divided by a decimal point. The figures to the left of the decimal point always indicate the Title number; the two figures immediately to the right of the decimal point refer to the Chapter number within that Title, and two figures at the right indicate the Section number within the Title and Chapter.

12.0206 Numbering of Amendments and Additions

Insofar as practical, amendments of and additions to this Ordinance may be numbered as Section, Chapter or Title of this Ordinance. Generally, additions to the subject matter of a given Chapter may be added as additional, numbered sections, within or at the end of the Chapter. A new Chapter may be added within or at the end of the Title to which it relates. A new Title may be inserted in the Title arrangement in alphabetical order by using the Title number of the preceding Title followed by a letter, as for example, “1-A” for Title number, “1-A.01” for Chapter number, and “1-A.0101” for Section number within the new Title following Title 1. The Finance Officer, with the approval of the City Attorney, may correct obvious mistakes and may correct Titles or Offices where names have been changed and make numbering consecutive within a Title where a gap exists.

Chapter 12.04: Definitions

Section
12.0402 Definitions

12.0402 Definitions

Unless clearly limited or stated otherwise, wherever any of the following words occur in any Ordinance of this city now in effect or hereafter enacted such words shall have the following meanings, respectively, to-wit:

- (a) “City”, “the City” or “this City” refers to the City of Clark, South Dakota.
- (b) All references to the Council, any committee, officer, appointee or employee shall be to the City Council, Council Committee, officer, appointee or employee of that title in this City.
- (c) “Person” includes persons, firms, corporations and every association or organization of people.
- (d) All masculine pronouns include the feminine and neuter.
- (e) Words used in the singular number include the plural, and the plural the singular.
- (f) Words used in the present tense include the future as well as the present.
- (g) Unless otherwise provided, the powers conferred upon an officer may be exercised by his deputy, representative or employee acting under him.
- (h) “Street” includes alley, avenue and traveled road.
- (i) “Lot” includes tract or parcel of ground.

Chapter 12.06: General Provisions

Section

12.0602	Validity
12.0604	All Prior Inconsistent Ordinances Repealed; Exceptions
12.0606	Ordinances Remain in Effect
12.0608	References to South Dakota Laws
12.0610	Area Affected
12.0612	Imprisonment in City or County Jail
12.0614	Imprisonment for Unpaid Fines
12.0616	Vested Rights
12.0618	Franchises
12.0620	Publication and Effect

12.0602 Validity

Should any section, paragraph, sentence, clause or phrase of this Ordinance be declared invalid or unconstitutional for any reason, the remainder of this Ordinance shall not be affected thereby.

12.0604 All Prior Inconsistent Ordinances Repealed; Exceptions

Upon the taking effect of this Ordinance, all prior inconsistent Ordinances and parts of ordinances adopted prior such taking effect, shall be repealed and be of no further force or effect except as otherwise provided in this Ordinance; except that all offenses committed prior to the taking effect of this Ordinance shall be subject to prosecution and punishment under the Ordinances in effect when such offense was committed – for which purpose all such Ordinances shall remain in full force and effect; and except that nothing in this Ordinance shall be construed as to impair any vested right or valid obligation existing when this said Ordinance takes effect.

12.0606 Ordinances Remaining in Effect

All Ordinances adopted subsequent to the taking effect of this Ordinance, and all Ordinances heretofore enacted and in effect immediately prior to the adoption of this Ordinance, relating to appropriations, bonds, special assessments, names of streets, establishment of water districts and sewer districts, and establishing street and avenue widths, shall remain in full force and effect in accordance with their respective provisions.

12.0608 References to South Dakota Laws

All references to Chapters or Sections of the South Dakota Compiled Laws, or any session law, shall apply also to any amendment or re-enactment of any such Chapter or Section.

12.0610 Area Affected

The provisions, regulations, restrictions, requirements and prohibitions contained in this Ordinance apply to the area within the territorial limits of the City unless otherwise specifically provided; and to the additional area referred to in Title 9 of South Dakota Codified Laws for the purposes outlined in that said title and amendment thereto.

12.0612 Imprisonment in City or County Jail

In all instances in which imprisonment is authorized as the punishment, in whole or in part, such imprisonment shall be in the detention facility employed by the City or County, as stated in the sentence of the Court, and may be at hard labor unless otherwise expressly limited by Ordinance.

12.0614 Imprisonment for Unpaid Fines

In all instances in which fines which are imposed are not paid, unless otherwise expressly provided in the sentence of the Court, the defendant shall be imprisoned until such fine has been paid, with a credit as authorized by state law and court rules, per day for all time served by reason of non-payment of said fine.

12.0616 Vested Rights

Nothing in this code shall be so construed as to impair any vested right or valid obligation existing when it takes effect.

12.0618 Franchises

Ordinances heretofore adopted granting any franchise, right-of-way, easement or contract shall not be affected by this code.

12.0620 Publication and Effect

This Ordinance shall take effect immediately upon its adoption and publication of the notice of such adoption as provided by SDCL 9-19-17.

Chapter 12.99: Penalty

Section

12.9902

Penalty

12.9902

Penalty

Except in cases where a different or additional penalty is imposed by this ordinance or by some existing provision of law, every violation of any of the provisions of this ordinance including any violation classified as a “misdemeanor”, shall be punishable by a fine not exceeding Five Hundred Dollars (\$500.00) or by imprisonment for a period not exceeding thirty (30) days, or by both such fine and imprisonment. Insofar as practical, punishment is set out in a Chapter or Section at the close of a Title or Chapter, always numbered “99”.