

# White Lake City Ordinances

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Ordinance Book adopted by resolution on April 4, 2022 and will take effect immediately upon the passage of Ordinance 4-4-2022.

## TITLE I: ADMINISTRATIVE CODE

- Chapter 1-1 City Council Meetings**
- Chapter 1-2 City Council/Governing Body**
- Chapter 1-3 Officers, Bonds, Salaries, and Compensation**
- Chapter 1-4 Law Enforcement, Fire Department**
- Chapter 1-5 Ordinance and Resolution Regulations**
- Chapter 1-6 International Property Maintenance Code**
- Chapter 1-7 Finance Regulations**

### Chapter 1-1: City Council Meetings

- 1-1-1 Regular and Special Meetings. On the 1<sup>st</sup> Monday of each month at a time and date to be determined and advertised in advance, the City Council shall meet at the City Hall or other designated place to consider and act upon such business as may come before it. When the first Monday falls on a legal holiday or falls within the first four days of the month, the council will meet the 2<sup>nd</sup> Monday of the month or held on another specified date. The City has the right to change meeting times and dates to ensure a quorum is present. Special meetings may be called at any time by the Mayor, or in his/her absence or inability to act or refusal to act, by the President of the Council or by three (3) of the Aldermen. (SDCL 9-8-8)
- 1-1-2 Notice of Regular and Special Meetings. The Finance Officer shall issue written notice of any regular or special meeting, with the proposed agenda, at least 24 hours prior to any meeting by posting a copy of the notice, visible to the public, at the city hall. The notice shall also be posted on the city website, if such a website exists. For any special or rescheduled meeting, the information in the notice shall be delivered in person, by mail, by email or by telephone to members of the local news media who have requested notice. For special and/or rescheduled meetings, the city shall also comply with the public notice provisions of this section for a regular meeting to the extent that circumstances permit. (SDCL 1-25-1.1)
- 1-1-3 Adjournment of Meetings. Any regular or special meeting may be adjourned to meet at a later date to be fixed at the time of adjournment.
- 1-1-4 Quorum, Majority Required for Action. A majority of the alderman of the City Council shall constitute a quorum. When a seat on the Council is vacant due to removal, resignation, death, or by operation of law, the quorum consists of the majority of the remaining alderman. (SDCL 9-8-8)
- 1-1-5 Record of Meetings. The City Council meeting shall be open to the public, unless otherwise allowed by SDCL, and a written record of its proceedings shall be kept.
- 1-1-6 Votes. The yeas and nays shall be recorded upon the passage of all ordinances and upon any proposal to expend or appropriate money, and in all other cases at the

request of any member. (SDCL 9-8-10) No municipal official may participate in discussions or vote on any issue in which the official has a conflict of interest and/or if the following circumstances apply: 1) the official has a direct monetary interest in the matter before the City Council; or 2) at least two-thirds of the City Council vote that an official has an identifiable conflict of interest that should prohibit such official from discussions or votes on the matter. If a municipal official with a conflict of interest participates in discussion or votes upon a matter before the City Council, the legal sole remedy shall be to invalidate the official's vote. (SDCL 6-1-17)

## **Chapter 1-2: City Council/Governing Body**

1-2-1 Class of Municipality. The City of White Lake shall be considered a third-class municipality with a population below 500. (SDCL 9-2-1) The City of White Lake may change its classification if the territory of the municipality has changed substantially since the last preceding census. The governing body by resolution may authorize and direct its Finance Officer to determine the population by filing in his or her office a certificate showing the whole number of persons who voted at the last preceding annual municipal election, which number multiplied by three shall constitute the population for the purpose of classification until the next federal census shall have been completed. (SDCL 9-2-2)

1-2-2 Form of Government/Composition. White Lake has an Aldermanic form of government. The City Council shall consist of five (5) members, of whom two (2) aldermen will be elected from each ward, and one (1) mayor elected from the entire community. (SDCL 9-2-3 and 9-8-4) A City Council member must be a citizen of the United States, a qualified voter of White Lake, and an individual residing within the city limits of White Lake for a minimum of three months prior to his/her election or appointment. No person may be a member of the City Council who owes money to the municipality or is delinquent on any funds owed the municipality of White Lake. (SDCL 9-14-2)

1-2-3 President of the Council. At the first regular meeting after the annual election in each year, and after the qualification of the newly elected alderman, the council shall elect from among its members a president and vice president, who shall hold their respective offices for the municipal year. (SDCL 9-8-7)

In the absence of the Mayor, the President of the council acts as the presiding officer of the council and has all the powers of the Mayor. However, the President of the council acting as the Mayor shall only vote as an alderman. No alderman acting as Mayor may vote as the Mayor to break a tie.

1-2-4 Mayor - Duties. The Mayor presides at all meetings of the council but only votes in the case of a tie. The Mayor performs other duties as may be prescribed by the laws and ordinances. The Mayor may sign or veto any ordinance or resolution passed by the council, and may veto any part or item of an ordinance or resolution appropriating money.

1-2-5 Vacancies. If a vacancy occurs for a City Council seat, the remaining members shall appoint a replacement to serve until the next annual municipal election, except as described below.

- A. If any member who is incapacitated by illness or an accident which causes the members to be unable to attend meetings of the City Council or fulfill the duties of the office, the member may elect to temporarily resign from the governing body. Notice of such shall be in writing to the Finance Officer. If the member or officer is unable to give notice, the member's/officer's spouse or guardian or any person has durable power of attorney for the member or officer may give notice of resignation. A temporary member may then be appointed by the remaining members who shall serve until the member or officer is able to fulfill the requirements of office or until the expiration of the member's term, whichever comes first. (SDCL 3-4-9)
- B. If any City Council member is also a member of the National Guard or reserved component of the armed forces of the United States and is called into active duty which causes the member to be unable to attend meetings of the City Council, the member may elect to temporarily resign from the City Council. Notice of temporary resignation shall be in writing to the Finance Officer. A temporary replacement shall then be appointed by the remaining members. The temporary member shall serve until the member returns from active duty or until the expiration of the member's term, whichever occurs first. (SDCL 3-4-8)
- C. Any appointee to fill an unexpired term must meet the qualifications as identified in Section 1-2-2.

### **Chapter 1-3: Officers, Bonds, Salaries and Compensation**

1-3-1 Appointment of Officers. Such officers as needed and provided for by ordinance shall be appointed. Each appointive officer shall be appointed by the mayor with the approval of the council. The City Council may by resolution enter into a contract pursuant to SDCL Ch. 9-14 with an attorney to provide legal services to the City as the City Attorney. (SDCL 9-14-3)

Finance Officer. The Mayor, with the approval of the City Council, shall hire the finance officer who shall perform all the duties specified by the laws of the state of SD and the ordinances of White Lake and other powers and duties for the City Council from time to time and order not consistent with the laws of the state of South Dakota and shall be bonded for an amount deemed necessary by the City Council.

Supervision of Departments. The Mayor may appoint the members of the City Council as he deems desirable to supervise departmental operations and accomplish an efficient division of the work and duties to be performed by the Council.

City Employees Not Provided by Ordinance. All full and part-time employee positions, including seasonal, to be hired by the municipality shall be approved in advance by a majority vote of the governing body. Supervisory capacity of said

positions shall be determined at that time.

- 1-3-2 Certificates of Appointment. All appointed officers, except the Finance Officer, shall be commissioned by warrant under the corporate seal, signed by the Mayor and Finance Officer. The Mayor shall issue a certificate of appointment under the seal of the municipality to the Finance Officer. (SDCL 9-14-4)
- 1-3-3 Vacancies, How Filled. In case of vacancy for any cause in the office of Finance Officer, Public Works Director, or any other appointive office, the City Council shall fill the vacancy.
- 1-3-4 Removal of Appointed Officer. The City Council shall have the power to remove from office any officers or employees appointed by the City Council whenever it shall be of the opinion that the interests of the City demand such removal. Such removal shall be by majority vote of the City Council.
- 1-3-5 Certain Officers Not to Hold Other Office. No Mayor or Finance Officer shall hold any other office under the municipality while an incumbent of any such office. If a Council member holds any office other than that of Council member, he/she must abstain from voting on issues of importance to that office.
- 1-3-6 Compensation. The annual salary of the Mayor, alderman and appointed officers and employees shall be set by resolution of the City Council at the regular meeting in January. (SDCL 9-14-28) The city shall comply with applicable state or federal wage and hour laws in regards to city employees. Employee benefits and other personnel issues shall be as set forth in the city's personnel policy manual.
- 1-3-7 Bonds. The Finance Officer shall be bonded in such sum to be approved by the City in accordance with state law, conditioned for the faithful performance of the duties of such office. The bond costs shall be payable by the municipality. (SDCL 9-14-6.1)

#### **Chapter 1-4: Law Enforcement, Fire Department**

- 1-4-1 Provision for Law Enforcement. Law enforcement in the City of White Lake shall be as provided by the Aurora County Sheriff's Department or as otherwise agreed upon or arranged by the City Council.
- 1-4-2 Fire Department. The White Lake Volunteer Fire Department shall be the designated Fire Department for the City of White Lake.

#### **Chapter 1-5: Ordinance and Resolution Regulations**

- 1-5-1 Ordinance Control Authority. The City Council shall have the authority to make, publish, ordain, amend and repeal all such ordinances, bylaws and police regulations, not contrary to the Constitution of the United States and the laws of this State for the good government and commerce of the City as may be necessary to carry into effect the powers vested in the City Council or any officer of said City by

this act.

1-5-2

Rules and Regulations Regarding Enactment of Ordinances and Resolutions. All ordinances of the City shall be passed pursuant to such rules and regulations as the City Council may prescribe provided that upon the passage of all ordinances the yeas and nays shall be entered upon the record of the City Council. A majority of the votes of all the members of said Council present shall be necessary to their passage, provided a majority of all the members elected shall constitute a quorum for the transaction of business.

- A. All ordinances of the City may be proven by the ordinance book or the certificate of the City of White Lake under the seal of the City, if there be such seal, and, when posted or published in a book or pamphlet form and purporting to be published or printed by authority of the City, shall be read and received in all courts and places without further proof.
- B. The style of all ordinances shall be as follows: "An ordinance (inserting the title)" followed by: "Be it ordained by the City of White Lake" followed by the substance of the ordinance.
- C. An ordinance must embrace only one subject, which shall be expressed in its title.
- D. All ordinances shall be read twice with at least five (5) days intervening between the first and second reading, shall be signed by the Mayor or representing alderman, filed with the Finance Officer, and published once. However, an ordinance incorporating and adopting comprehensive regulations or a code promulgated, approved, and published by a recognized and established national organization prescribing building, electrical, plumbing, safety, fire, or health need not be published in a newspaper, but upon adoption of such an ordinance, the Finance Officer shall publish a notice of the fact of adoption once a week for two (2) successive weeks in the official newspaper. Twenty (20) days after the second publication of such notice, unless a referendum has been invoked, such ordinance shall become effective. (SDCL 9-19-7)
- E. Except such resolutions or ordinances as may be necessary for the immediate preservation of the public peace, health, safety, or support of the municipal government and its existing public institutions, or which provide for an election, or for hearing on an improvement or assessment, or which call for bids, which take effect on the twentieth (20<sup>th</sup>) day after its publication unless suspended by operation of a referendum. (SDCL 9-19-13)
- F. A resolution may be passed after one (1) reading. It shall be recorded at length in the minutes of the meeting at which it is passed with a statement of the number of votes for and against. It shall be published in full as part of the minutes. (SDCL 9-19-8)

1-5-3

Expansion of Powers Beyond Existing Ordinances. When by State law the power

confirmed upon the Mayor and Council to do and perform any act or things and the manner of exercising the same is not specially pointed out, the Mayor and Council may provide, by ordinance, the details necessary for the full exercise of such powers.

**Chapter 1-6: International Property Maintenance Code.**

- 1-6-1 International Property Maintenance Code. The White Lake City Council is following the 2018 edition of the International Property Maintenance Code, regulating and governing the conditions and maintenance of all property, buildings, and structures; by providing the standards for facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures in the City of White Lake; providing for the issuance of permits and collection of fees. The City Council of the City of White Lake does ordain as follows:
- 1-6-2 That a certain document of which is on file in the office of the City Finance Officer of the City of White Lake, being marked and designated as the International Property Maintenance Code, 2018 edition, as published by the International Code Council, be and is hereby adopted as the Property Maintenance Code of the City of White Lake in the State of South Dakota for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures as herein provided; proving for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions penalties, conditions and terms of said Property Maintenance Code on file in the office of the City of White Lake are hereby referred to, adopted and made a part hereof as if fully set out in this legislation.
- 1-6-3 The City of White Lake 2018 International Property Maintenance Code (Property Maintenance Code) shall be in effect to run concurrently with all other previous ordinances. The International Property Maintenance Code will supersede any and all ordinances if a direct conflict should arise.
- 1-6-4 That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional; such decision shall not affect the validity of the remaining portions of this ordinance. The White Lake City Council hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.
- 1-6-5 That nothing in this ordinance or in the Property Maintenance Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Section 1-5-6 of this ordinance; nor shall any just or legal right or remedy of any character be lost,



impaired or affected by this ordinance.

- 1-6-6 That this ordinance is necessary for the immediate preservation of the public peace, health and safety, and for the support of the municipal government and its existing public institutions and shall take effect immediately upon the passage and publication hereof.

### **Chapter 1-7: Finance Regulations**

- 1-7-1 Revenues and Special Funds. All money belonging to the City from taxation, licenses, fines, permits, the operation of utilities, or from any other source, shall be paid into the City treasury, and the City Council shall designate by ordinance to what fund or funds such money shall be applied. The Finance Officer shall keep full, true and just accounts of all financial affairs of such form and in such manner as from time to time is required by the South Dakota Department of Revenue. (SDCL 9-14-18)
- 1-7-2 Records Retention and Destruction. The Records Retention and Destruction Schedule Manual, authorized for South Dakota municipalities by the Office of Records Management, Bureau of Administration, State of South Dakota, shall be adopted by the City Council, and a printed copy of such manual shall be filed with the Finance Officer.
- 1-7-3 Annual Reports by Boards. Each of the boards appointed, if any, and acting for the City shall make an annual report of its receipts, disbursements and activities to the City Council as soon as practicable after the close of the fiscal year. Such reports are to be filed with the Finance Officer.
- 1-7-4 Sale of Personal Property. Whenever the City deems it necessary in the best interest of the City that personal property belonging to the City be sold, said property having been abandoned or about to be abandoned for public use, said property shall be sold to the highest bidder upon terms determined by the City Council.
- Notice of such sale shall be given by publication once a week for two successive weeks in the official newspaper of the City, the notice to contain a description of the personal property to be sold and the time and place where bids will be received by the City Council. The City Council may at such time sell said personal property to the highest bidder or may reject the bids.
- 1-7-5 Claims. All claims against the City shall be in writing and upon forms provided by the Finance Officer and in such form as required by statute of the State of South Dakota. Prior to passage or payment by the City Council, claims shall bear the approval of the City Council.

Verifiable documentation: official city council minutes, personal signature, printed email or email chain showing reply to request(s) with the council members first and last name, email address, time, day, and response.

Official documentation: company invoice/bill, typed page with organization title and address with the typed name of individual requesting payments of funding with written signature accompanied with printed store receipts where applicable.

Following SDCL 9-23-1, "Before any claim against any municipality for any property or services for which it is liable is allowed, an itemized invoice must be completed and accompanied by a voucher verified by the appropriate municipal official that the services, other than those provided by municipal employees, or materials have been received." The governing body needs to authorize the prepayment of claims against the municipality for services *before* they have been provided.

- a. Any request for city funds outside of normal city business and operation will not be discussed and or payed without the physical presence of the requesting party or alternate named affiliate at regularly scheduled City Council meetings.
- b. All fund requests must be presented with official documentation. Hand written bills, bids, receipts, or contracts will not be accepted or debated.
- c. The city finance officer is prohibited from being the representing party for any request of city funds for payment or partial payment requests outside normal city business and operations.
- d. Exception is: any city council member, the mayor, or other city hired or appointed employee which has incurred personal financial expense due purchase of supplies for city use or fees paid for training shall be paid without prior council approval.

1-7-6

Supplies. The Finance Officer shall purchase supplies, shall have charge thereof, and shall make all sales therefrom, but no single item purchase involving an expenditure of more than \$500 shall be made with the maximum order total of \$1,000.00 shall be made without the consent of the City Council being first obtained. The Public Works Director may purchase supplies up to \$1,000 without previous approval of the City Council. A bill with the price thereof shall immediately be filed with the Finance Officer, and shall bear the endorsement of such officer or agent showing in what respect, if any, the material or articles failed to correspond with the material or article ordered.

## **TITLE 2: BOUNDARIES, WARDS AND PRECINCTS**

### **Chapter 2-1 Boundaries**

### **Chapter 2-2 Wards and Voting Precincts**

#### **Chapter 2-1: Boundaries**

2-1-1 Boundaries. The corporate limits of the City are declared to be such as have been legally established by the Articles of Incorporation dated May 4, 1887 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)

#### **Chapter 2-2: Voting Precincts**

2-2-1 Voting Precincts. The City shall be comprised of one election precinct for the purpose of holding all municipal elections. City Hall shall be the voting place, unless another voting place is so designated.

2-2-2 Number of Wards. The City of White Lake is divided into two (2) wards of substantially equal population.

- A. Ward 1 of the City of White Lake shall consist of all land lying East of Oppel and East Street to the city limits.
- B. Ward 2 of the City of White Lake shall consist of all land lying West of Oppel and East Street to the city limits.

## TITLE 3: GENERAL PROVISIONS ABOUT PUBLIC AREAS

### Chapter 3-1 Duty of Owners

### Chapter 3-2 Duty of City

#### 3-1: Duty of Owners

It shall be the duty of all non-resident owners to have all lots, or parts of lots owned by them, and all sidewalks, streets and alleys abutting on said lots kept free from all rubbish and in case of failure or refusal upon their part so to do, upon notice as aforesaid, then and in that case, the City Council may order the said rubbish to be removed, and have the costs of such removal assessed to the owner of said lot or lots as other taxes, or recovered by a civil action against said owner or owners prosecuted on behalf and in the name of, the City of White Lake.

#### 3-1-1 Hindering Maintenance Personnel in making Improvements

No person shall hinder or obstruct any employee of the City in lawfully making any improvement in any public street, alley or public ground in the town.

#### 3-1-2 Trimming Trees

The occupant or owner of any private premises abutting any public street or alley shall keep all trees standing upon such premises or between he same and the center of the adjoining street or alley so trimmed that no bough of branch thereof shall hang lower than eight feet above the sidewalk level.

#### 3-1-3 Hindering Drainage

No person shall hinder drainage on City streets by obstruction flow by filling ditches or culverts in any way.

#### 3-1-4 Culverts

The owner of any driveway that wants or needs a culvert shall be at the property owner's expense. The culvert, 15 inches, will be installed for the cost of the culvert. If a larger culvert is required for proper drainage, the City will pay the cost over and above the 15-inch culvert. Upon failure, neglect or refusal of any owner, agent or occupant so notified to comply within 30 days upon completion of culvert installation, to pay to the City the cost of installation thereof by special assessment will be placed against the property.

### Chapter 3-2: Duty of City

#### 3-2-1 Rebuilding and Repair

Whenever the City Council or the City of White Lake shall deem it necessary to construct, rebuild or repair any sidewalks in said town, they shall notify all owners and occupants of any lots adjoining such sidewalks requiring the construction and repair, within a time limit at the said owner's expense. The notice shall contain what work is to be done, and the character, and it may be general as to the owner or occupants but must be specific as to the descriptions of the lots or parcels or land in

front of which sidewalks are to be built, rebuilt or repaired. The time specified in such notice shall be not less than fifteen (15) days from the time of first notice.

If such work is not done and the sidewalks not built, repaired or rebuilt in the manner and with the time prescribed above in said notice, the City Council may order the same to be done by any such person they contract with and under the direction of the Finance Officer. The said expenses shall be assessed upon the lots or parcels of land chargeable by the Finance Officer, the bill delivered by him/her to the City Council. The Finance Officer shall then publish the amount, together with a notice of time and place where the City Council will meet to approve. The publication in each newspaper, shall occur at least ten days prior to the meeting of the City Council. Said assessments, if so made and approved, shall be a lien upon said lots and parcel of land, on and after such approval is given. Within ten days after such assessments shall have been approved, the Finance Officer shall file a certified copy of the same in the city finance office, and thereupon said assessment shall be payable to the said City of White Lake. If they are not paid within thirty days, a penalty of ten (10) percent shall be added.

The City Council may provide by ordinance provisions for the repairing of sidewalks. Any owner of real property who shall fail to keep in repair their sidewalks when notified, shall be held liable to the City of White Lake for any damage caused by such neglect.

## TITLE 4: HEALTH AND SANITATION

### Chapter 4-1 Nuisances

### Chapter 4-2 Collection of Garbage

#### Chapter 4-1: Nuisances

4-1-1 Definitions. The following definitions shall define the terms used in this Chapter.

- A. Garbage. The animal and vegetable waste resulting from the handling, preparation, cooking and serving of foods.
- B. Solid Waste. Any garbage, refuse, sludge from waste treatment plant, water supply treatment plant or air pollution control facility and other discarded materials, including solid, liquid, semisolid or contained gaseous material resulting from industrial, commercial and agricultural operations, and from community activities, including, but not limited to, wood and other construction materials, appliances, yard waste, tires, scrap iron, chemicals or fuel. (SDCL 34A-6-1.2)
- C. Wastewater. The spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, together with any groundwater, surface water and storm water that may be present.
- D. Abandoned property. Any junk car, car bodies or equipment of any type, except in an authorized junk yard, or any accumulation of other unsightly trash or junk which would constitute a health hazard, a rodent harborage, a breeding area for insects or rodents, a dangerous place for children to play in and around, or which is unsightly and may lower the value of adjacent real property because of its unsightliness.
- E. Abandoned vehicle. Any vehicle that is left unattended or stored on any public property in the same or substantially same place within the City for a period longer than 24 hours.
- F. Inoperable vehicle. Any vehicle which is not in operational condition due to damage, removal, or inoperability of one or more tires and wheels, the engine, or other essential parts required for the operation of the vehicle; or which does not have lawfully affixed current license plates; or which constitutes an immediate health, safety, fire, or traffic hazard.
- G. Nuisance. Unlawfully doing an act, or omitting to perform a duty, that: (1) annoys, injures, or endangers the comfort, health, or safety of others; (2) renders other persons insecure in life, or in the use of property; (3) may cause injury to human health; or (4) may be hazardous to the ground, water, air, or food. The specific acts, conditions and things listed in Section 3-1-2 are hereby declared to constitute public

nuisances, but such acts, conditions, and things shall not be deemed to be exclusive (SDCL 21-10-1)

- H. Private property. Any real property within the City that is privately owned and which is not public property.
- I. Public property. Any street, alley or highway which shall include the entire width between the boundary lines of every way publicly maintained for the purposes of vehicular travel, and also means any other publicly owned property or facility.
- J. Removal agency. Any public body, private or nonprofit organization authorized, hired or appointed by the City to remove and salvage vehicles.
- K. Unightly trash or junk. Property which is deteriorated, wrecked or derelict property in unusable condition, having no value other than nominal scrap or junk value, if any, and which is left outside of a permanent, enclosed structure. This shall include, but is not limited to, motors, lawn mowers, campers, refrigerators and other household appliances, furniture, household goods and furnishings, scrap metals or lumber, or other similar articles in such condition.
- L. Vehicle. Any conveyance, whether or not self-propelled, designed to travel along the ground or in or on the water. This shall include, but is not limited to, automobiles, buses, motorbikes, motorcycles, motor scooters, trucks, tractors, pull trailers, go-karts, golf carts, boats, jet skis, campers, and trailers.

4-1-2

Acts, Omissions and Conditions Prohibited. No person, whether an owner, occupant, tenant or other person in charge of any real property within the corporate limits of the City shall create, commit, maintain, or permit to be created, committed, or maintained, any public nuisance, to include, without limitation, the following specific acts, conditions and things, all of which are hereby declared to constitute a nuisance: (SDCL 9-32-1)

- A. Depositing, accumulating, or permitting to be accumulated upon any public or private property any household wastewater, sewage, garbage, refuse, rubbish, offal, excrement, decaying fruit, vegetables, fish, meat, bones; any foul, putrid, or obnoxious liquid substance; any chemical or hazardous material; decaying or non-decaying animal or vegetable wastes or solid wastes; or any other waste material that constitutes or may create a danger to public health, safety, and welfare. (SDCL 9-32-10, SDCL 34A-7-9)
- B. The accumulation of manure, garbage, or anything that may be breeding areas for flies, mosquitoes, or rodents. (SDCL 9-32-10)
- C. The growth of plants declared to be primary or secondary noxious weeds by the State Weed and Pest Control Commission, all weeds declared to be locally noxious by the City Council, and all other weeds and grasses growing upon any property in the City to a height greater than eight (8) inches, or which have gone or are about to go to seed, or the dense growth of brush or grasses which may constitute a health, safety

or fire hazard, shall be deemed noxious, dangerous and unhealthful vegetation and are hereby declared to be a nuisance. Diseased or dead trees, fallen tree limbs, and dead tree limbs shall also be declared dangerous and a secondary noxious weed. (SDCL 9-32-12)

Weeds and plants being grown as hay for livestock consumption, as a native prairie display garden, or as a wildflower display garden, or other nature areas, so long as they are approved to be used as such by the City Council, shall not constitute a nuisance.

- D. For the owner of a dead animal to permit it to remain undisposed of longer than twenty-four (24) hours after its death. (SDCL 9-29-13)
- E. Any excavation, trench, or open basement in which stagnant water is permitted to collect or which may jeopardize the life, health, or safety of the public. (SDCL 9-29-13)
- F. Throwing, letting fall on, or permitting to remain on any street, alley, or public ground any manure, garbage, rubbish, filth, fuel or wood while engaged in handling or removing any such substance. (SDCL 9-32-10)
- G. Keeping or maintaining any building or enclosure where livestock or fowl are kept, unless a special permit is requested and such is approved by the City Council. (SDCL 9-29-13)
- H. Keeping, penning, maintaining, or pasturing within one (1) block of any residence within the City any animals except bonafide pets, except when penning is necessary for purposes of loading or shipping. When such keeping or penning is necessary for purposes of loading or shipping livestock, it shall be unlawful to keep or pen these animals within one (1) block of any residence of the City for more than twenty-four (24) hours.

Exceptions to this provision shall be those parcels of land within the limits of the City that have been used as agricultural and have been in continual use for livestock purposes.

- I. Barbed Wire Fences. No person, firm, or corporation shall erect or maintain any barbed wire fence within the limits of the City. This shall not apply to any tract or tracts of land lying within the City designated and used exclusively for farming.
- J. Disposing of garbage, waste, or refuse by open burning, or causing, allowing, or permitting the conducting of a salvage operation by open burning in the City. No garbage or trash shall be burned outside of any building or family dwelling within the City of White Lake. The following types of open burning shall be permissible for a specific purpose when conducted in conformity with the subsections set forth below:
  - 1. Fires set for the elimination of a fire hazard, which cannot be abated by any other means when authorized by the Fire Chief of the City Volunteer Fire Department.



2. Fires purposely set by City maintenance personnel for purposes authorized by the Fire Chief of the City Volunteer Fire Department.
  3. Fires purposely set by City Volunteer Fire Department personnel and authorized by the Fire Chief for the purpose of training, and conducted in accordance with fire-training standards.
  4. Campfires and other fires used solely for recreational purposes, for ceremonial occasions, and for outdoor preparation of foods.
- K. Maintaining, or causing or permitting to remain, any building or premises determined to be dangerous or dilapidated. Any building or structure that has any of the following conditions or defects is deemed to be a dangerous or dilapidated building if such conditions or defects thereby annoy, injure, or endanger the comfort, health, or safety of others; affect the value of neighboring property; or jeopardize the life, health, or safety of its occupants:
1. The building or structure is vacant and unoccupied for the purpose for which it was erected.
  2. The building is unfit for occupancy as it fails to meet minimum housing standards.
  3. The building has remained substantially in such condition for a period in excess of six months.
- L. Maintaining or permitting to be maintained on any private or public property any abandoned property or unsightly trash or junk, abandoned vehicle, or inoperable vehicle or parts thereof. It shall be unlawful to keep or place upon any private or public property any of such vehicles or vehicle parts, unless stored in a building or on an emergency basis. A carport, tarpaulin, tent, or other similar temporary structure shall not be deemed to satisfy the requirements of this section.

In no event shall an inoperable vehicle that constitutes an imminent health, safety, or fire hazard be kept or located on any real property.

- M. The requirements of Section 3-1-2 L shall not apply to the following:
1. One inoperable vehicle kept on private property without being shielded from public view if licensed and kept on a private driveway. If this inoperable vehicle is in a state of externally visible disrepair or disassembly, it shall not be kept on the private driveway longer than thirty (30) days.
  2. Filling stations, automobile repair shops, or any other motor vehicle related businesses in compliance with the applicable City ordinances may place inoperable vehicles being repaired or offered for sale on the premises. It shall not be kept on lot longer than sixty (60) days.
  3. Junkyards operated and maintained in compliance with applicable City

ordinances.

4. Any vehicle specifically designed and used for operation on drag strips or raceways that remains on private property.
5. Any vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the City or authorized by the City.

4-1-3 Diseased Vegetation. Any owner, occupant, or person in charge of any property under the jurisdiction of the City shall remove at his own expense any trees, brush, wood, or debris infected with Dutch Elm disease or other infestations or infectious disease when notified by the City to do so. The City Council shall cause to be mailed to such owner, occupant, or person, written notice that they may appear before the City Council at the next scheduled meeting to show cause why said trees, brush, wood, or debris should not be declared a nuisance.

At said meeting the City Council may resolve and declare the same to be a public nuisance and may order its removal by said owner, occupant, or person within twenty-one (21) days from the date of service of said resolution and order on said owner, occupant, or person.

4-1-4 Littering in Public Places. No person shall throw or deposit litter in or upon any street, sidewalk, or other public place within the City, except in authorized public or private receptacles. The following further identifies acts and conditions that constitute nuisances and are therefore prohibited.

- A. No person shall sweep into or deposit in any gutters, streets, or other public place within the City, the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property or places of business shall keep the sidewalk in front of such premises free of litter. For purposes of this Chapter, a public nuisance shall also include snow and ice when deposited or allowed to accumulate in conflict with the provisions of this section.
- B. No persons, while a driver or passenger in a vehicle, shall throw or deposit litter upon any street or other public place or upon private property within the City. No person shall drive or move any truck or other vehicle within the City unless such vehicle is so constructed or loaded as to prevent any load, contents, or litter from being blown or deposited upon any street, alley, or public place.
- C. No person shall throw or deposit litter on any occupied, open, or vacant private property within the City, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being deposited upon any streets, sidewalk, or other public place or upon any private property.

4-1-5 Removal of Abandoned or Inoperable Vehicles - Public Property. Whenever the City or any law enforcement officer for the City finds an abandoned or inoperable vehicle on public property within the City, a written notice shall be placed on the

vehicle that it will be removed to a garage or place of safety unless the owner removes the vehicle from public property within 24 hours of the giving of the notice. After the expiration of the 24-hour period, the vehicle may be removed by a removal agency to a garage or place of safety. Nothing in this section precludes the City or any law enforcement officer for the City from immediately removing a vehicle that constitutes an imminent health, safety or fire hazard.

- 4-1-6 Disposal of Unclaimed Vehicles. The removal agency shall have the rights and obligations conferred upon it by South Dakota law in regard to titling or disposition of such unclaimed, abandoned or inoperable vehicle, except that, if not otherwise provided by state law, it shall have a possessory lien upon any vehicle removed under provisions of this chapter for the costs or reasonable charges in taking custody of and storing such vehicle.
- 4-1-7 Duty of Private Property Owners. No person owning, in charge of or in control of any real property within the City, whether as owner, tenant, occupant, lessee or otherwise, shall allow any abandoned or inoperable vehicle of any kind to remain on such property longer than thirty (30) days.
- 4-1-8 Notice Procedure. A written notice shall be placed on the abandoned or inoperable vehicle by the City or by any law enforcement officer for the City requesting the removal of such motor vehicle in the time specified in this chapter. Written notice shall be given to the owner of the property by certified mail or first-class mail requesting the removal of such motor vehicle in the time specified in this chapter.
- 4-1-9 Responsibility for Removal. Upon notice having been given, the owner of the abandoned or inoperable vehicle and the owner or occupant of the private property on which the vehicle is located, either or all of them, shall be responsible for its removal.
- 4-1-10 Content of Notice. The notice in Section 3-1-8 shall request removal of the abandoned or inoperable vehicle within thirty (30) days after the date of the posting or mailing of such notice, and the notice shall advise that failure to comply with the notice to remove shall be a violation of this Chapter, that the City may take steps to abate the same, and that in addition to abatement directly or by civil action, the City may pursue criminal fines and penalties against the owner, occupant, tenant or other person in charge of the real property as provided in this Chapter.
- 4-1-11 Public and Private Nuisance Defined. A public nuisance is one that affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon the individuals may be unequal. Every other nuisance is private. (SDCL 21-10-3)
- 4-1-12 Remedies Against Nuisances. The Remedies against any nuisance shall be: (1) a civil action; (2) abatement; and (3) in cases of public nuisance only, the additional remedy of indictment or information as prescribed by this Chapter or by South Dakota laws, and the rules relating thereto. (SDCL 21-10-5)

- 4-1-13 Abatement. A public nuisance may be abated without civil action by the City Council or by any officer authorized thereto by law. Any private person may likewise abate a public nuisance which is especially injurious to him or her, or any private nuisance injurious to him or her by removing, or, if necessary, destroying that which constitutes the nuisance, without committing a breach of the peace or doing unnecessary injury. If a private nuisance results from a mere omission of the wrongdoer, and cannot be abated without entering upon his or her land, reasonable notice shall be given to him before entering to abate it. The City may defray the cost of abating a public nuisance by taxing the cost thereof by special assessment against the real property on which the nuisance occurred. When the nuisance abated is an unsafe or dilapidated building, junk, trash, debris or similar nuisance arising from the condition of the property, the City may commence a civil action against the owner of the real property for its costs of abatement in lieu of taxing the cost by special assessment (SDCL 21-10-6)
- 4-1-14 Public Nuisance Penalty and Remedy. The City may use the remedies of civil action and abatement as set forth in SDCL 21-10-5 through 21-10-9, as well as any other remedies available by law.
- 4-1-15 Notice of Violations. Whenever the City has determined that there has been a violation of this code, or has grounds to believe that a violation has occurred, notice shall be given to the owner or the person(s) responsible as prescribed below.
- A. Such notice shall:
1. Be in writing.
  2. Include a legal 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 structure or premises into compliance with the provisions of this code: and
  5. Inform the property owner of the right of appeal.
- B. Such notice shall be deemed to be properly served if a copy thereof is:
1. Delivered personally; or
  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 or premises affected by the notice.
  4. Delivered by sheriff
  5. Published in the City's official newspaper

## **Chapter 4-2: Collection of Garbage**

- 4-2-1 Definitions. The following definitions shall define the terms used in this Chapter.

- A. Bulky Items. Large items such as white goods or furniture.
- B. Commercial Solid Waste. Solid waste generated by stores, offices, restaurants, warehouses, printing shops, service stations, and other non-manufacturing, non-household sources.
- C. Garbage. Solid and semisolid putrefiable animal and vegetable wastes resulting from the handling, preparing, cooking, storing, serving, and consuming of food or of material intended for use as food, and all offal, excluding useful industrial by-products, from all public and private establishments and from all residences.
- D. Trash: For purposes of this Ordinance, shall mean plaster, ashes, cinders, metals wood trees, tree limbs, leaves and grass clippings except as may be collected and stored for composting, animal waste, waste building materials, junk appliances, car bodies, car parts, and other bulky type articles and materials.
- E. Household Waste. Solid waste derived from households, including single and multiple residences, but not waste from commercial activities that is generated, stored, or present in a household.
- F. Rubble. Stone, brick, concrete, or similar inorganic material, excluding ash, waste tires, and asbestos-containing waste materials.
- G. White Goods. Discarded refrigerators, ranges, washers, water heaters, and other similar domestic and commercial appliances.

4-2-2 Removal of Garbage, Commercial Solid Waste and Household Waste. The owner, resident, operator or member of each individual household or residence, multi-family dwelling, business, association or corporation, within the City shall utilize the collection service provided by the City for the regular removal and disposal of all garbage, commercial solid waste and household waste. No owner, operator or member of an individual household or residence, multifamily dwelling, business, association or residence shall attempt to dispose of garbage, commercial solid waste, and household waste other than by collection by the City or the City's designated contractor.

4-2-3 Unlawful Dumping. It is unlawful for any person or persons to dump or dispose of garbage or trash upon any property in the City of White Lake, or for any person or persons to permit, suffer, allow or let any garbage or trash previously collected or accumulated to remain upon premises owned, occupied or controlled by him or then, either as owner, landlord or tenant, for an unreasonable length of time in view of the nature of said garbage or trash, but in no event for a period longer than fourteen (14) consecutive days, except as herein provided.

4-2-4 Removal of Rubble, Bulky Items, and White Goods. Each person and/or business may remove their own rubble, bulky items, and white goods, provided the rubble, bulky items, and white goods are disposed of in an appropriately permitted facility.

- 4-2-5 Bagging and Tying of Garbage. All garbage, household waste, and commercial solid waste shall be bagged, and household waste shall be bagged, tied and placed in a suitable container at the curbside or alley side adjacent to the residence or business in accordance with the wishes of and at the times directed by the City. Suitable containers are those receptacles equipped with a lid to prevent the contents of the containers from being blown out and scattered. The occupant of every dwelling house or apartment and of every place of business and building whether it be as owner, tenant, agent, or person in charge shall provide a suitable water tight container in which the occupants shall cause to be deposited all garbage accumulating upon the premises, which garbage containers shall be kept in a
- 4-2-6 Collection of Garbage and other Refuse. Garbage collectors shall collect and dispose of all garbage and trash accumulating in the residence or other buildings of their customers. Trash shall be collected when requested and, on such terms, and rates as may be agreed upon. Garbage shall be collected from residences at least one day a week, and from each establishment or place of business weekly or more often if requested and agreed upon between the occupants and the garbage collector, and at the rate agreed upon.
- 4-2-7 Rates for Collection and Disposal of Garbage and Trash. The City Council may establish a charge for the collection of garbage from each household, business or occupied structure, within the City of White Lake and such charge for collection and disposal of garbage shall be payable by and chargeable to either the owner or occupants of such property. Such charge as above stated shall be noted on the utility bill of each unit and shall immediately become due and payable upon such billing date. In the event of nonpayment of said utility charges, water service and garbage collection may be forthwith discontinued by the City at such premises. In addition to the foregoing methods of billing and collecting the charges for garbage gathering from the above units, the City finance Officer with the approval of the Mayor of the City may from time to time adopt and use, and may also enforce as above provided, other methods of billing and collecting such garbage charges as may appear efficient, feasible and appropriate to the end that in every case each unit shall pay the collection charge provided for in this Ordinance. Any person may contract for the collection of garbage with any collector of garbage licensed under this Ordinance and may submit proof of such contract to the City Finance Officer. No City charge for the collection of garbage shall be assessed against any person who has submitted proof of a valid garbage collection agreement with a licensed garbage collector and whose garbage is actually being collected by such collector. The City Council may establish a charge for the collection of trash from each household, business or occupied structure within the City of White Lake, with said charge to be collected as provided. The City Council shall make such arrangements as are necessary for the collection of garbage and trash from those individuals paying the City garbage collection fee.
- 4-2-6 Restricted Use Site. The City operates a restricted use site in accordance with South Dakota rules and regulations. Items that will be accepted at the restricted use site

will be posted and may change from time to time.

White Lake City Tree Pile Notice—As a reminder, our State permit for the refuge pile allows the city to operate our sight for the burning of *tree waste and untreated wood only*. Grass clippings, ashes from unknown sources, plastic beverage containers, cardboard, furniture, animal skins and other solid wastes must be sent to the landfill, and cannot be disposed of at the tree pile.

The sight is monitored, and any person illegally dumping at the tree pile will be subjected to a \$200.00 fine and will be responsible for cleanup and proper disposal of their waste.

## TITLE 5: PUBLIC NUISANCES

### Chapter 5-1 Nuisances

#### Chapter 5-1: Nuisances

- 5-1-1 Purpose. It is the purpose of this Chapter to provide a just, equitable and practicable method, to be cumulative with and in addition to any other remedy provided by city ordinances or otherwise available at law, whereby a public nuisance located on any premises or public property which from any cause endangers the life, limb, health, morals, property, safety or welfare or the general public or which tends to lower the value of adjacent real property because of its unsightliness may be required to be repaired, removed or abated.
- 5-1-2 Definitions. For the purpose of this Chapter certain terms, phrases, words and their derivatives shall be construed as specified in either this chapter, the municipal code or as specified in the Uniform Building Code. Where terms are not defined, they shall have their ordinary accepted meanings, within the context with which they are used. Where the definitions imposed by any provision of this Chapter are more restrictive than comparable definitions imposed by any other law, ordinance, statute, resolution, or regulation of any kind, the definitions that are more restrictive or impose a higher standard or requirements shall prevail.
- (1) “Abandoned vehicle” means any vehicle which is left unattended on any public street, alley, public place or parking lot within the city for a longer period than twenty-four hours without notifying the city and making arrangements for the parking of such vehicle.
  - (2) “Abatement” means the removal of the nuisance.
  - (3) “Abatement costs and expenses” are the actual expense incurred to abate the nuisance plus a graduated non-compliance fee calculated over the calendar year.
  - (4) “Appliance” means any household or office device operated by gas or electrical current, which would include but not limited to stoves, refrigerators, washing machines and dryers.
  - (5) “Antique/collectible vehicle” means any vehicle which has an antique vehicle license issued by the State of South Dakota.
  - (6) “Board of appeal” means, the City Council of the City of White Lake, South Dakota.
  - (7) “Building official” as used in this article shall be construed to mean the mayor, finance officer such other city official or employee as may be authorized by the city council who is responsible for the enforcement of this Chapter.
  - (8) “City” means the city of White Lake.
  - (9) “Inoperable or junked vehicle” means any vehicle which is not in operating condition due to damage or removal or inoperability of one or more tires or wheels, damage or removal or inoperability of the engine or other essential parts required for the operation of the vehicle, or which does not have a valid state license plate as required by law, or the condition of which is wrecked, dismantled or partially dismantled, or which constitutes a health, safety, fire, or traffic hazard.
  - (10) “Litter” as used in this chapter means any discarded, used or contaminated



substance or waste. "Litter" may include, but is not limited to, any garbage, trash, refuse, debris, rubbish, grass clippings or other lawn or garden waste, newspapers, magazines, glass metal, plastic or paper containers or other packaging construction material, abandoned motor vehicles, motor vehicle parts, tires, salvage materials, furniture, oil, carcasses of dead animals, any nauseous or offensive matter of any kind, any object likely to injure any person or create a traffic hazard, dead trees, dead tree branches, construction materials, or anything else of any unsightly or unsanitary nature, which has been discarded, abandoned, or otherwise disposed of improperly.

(11) "Nuisance" as used in this chapter means the unlawful doing an act, or omitting to perform a duty, which act or omission either:

(A) Annoys, injures or endangers the comfort, repose, health or safety of others or which tends to lower the value of adjacent real property or which because of its unsightliness may be required to be repaired, removed or abated;

(B) Offends decency;

(C) Unlawfully interferes with, obstructs, or tends to obstruct, or renders dangerous for passage, any public park, square, street or highway;

(D) In any way renders other persons insecure in life, or in the use of their property.

(12) "Premises" is a lot or parcel of land, improved or unimproved, parking areas thereon, walkways, sidewalks.

(13) "Person" means any person, firm, partnership, association, corporation, company or organization of any kind who or which is the owner of personal property or owner, manager, occupant, or tenant/lessee of real property subject to this Chapter.

(14) "Private property" means any real property within the city, which is privately owned and which is not public property.

(15) "Public property" means any street, alley or highway, or boulevard which shall include the entire width between the boundary lines of every way publicly maintained for the purposes of vehicular travel, and also means any other publicly owned property or facility.

(16) "Vehicle" means any vehicle which is designed to travel along, or on the ground or water and shall include, but not be limited to, automobiles, buses, motorbikes, motorcycles, motor scooters, trucks, tractors, go-carts, golf carts, campers, trailers, boats and farm equipment.

5-1-3 Maintenance of conditions constituting nuisance. (a) It is unlawful for any person, firm or corporation owning, leasing, occupying or having charge or possession of any real property within the City of White Lake to create, keep, maintain or permit a public nuisance; (b) It is unlawful for any person, firm or corporation to create, keep, or maintain a public nuisance upon any public property within the city limits.

5-1-4 Enumeration of conditions constituting nuisance. (a) It is declared that one or more of the following conditions either alone or in combination with others, which at the same time affects an entire community or neighborhood, or a considerable number of persons, although the extent of annoyance or damage inflicted upon the individuals may be unequal, constitutes a public nuisance, however this enumeration shall not be deemed exclusive:

- (1) The keeping of premises at variance with the zoning laws applicable to the premises;
- (2) The interference obstructing or rendering dangerous for passage any public park, street, alley or highway;
- (3) The abandonment, leaving or placing on any street, alley or public place any property of any kind;
- (4) Broken windows, doors, attic vents and under-floor vents;
- (5) Allowing the exterior building coverings to deteriorate as to encourage decay, dry rot, warping and cracking;
- (6) Any malfunctioning, leaking, unclean or filthy sink, water closet, urinal or other plumbing fixture in any building open for public use;
- (7) Any sign or sign structure that is dismantled, partially dismantled, defective, broken, deteriorated, in disrepair, or defaced;
- (8) The accumulation of dead animals, animal matter or waste of any kind, dead, decayed, diseased trees, and other vegetation;
- (9) Failure to store in a covered metal container or throwing or letting fall on or permit to remain on any street, alley or public ground any manure, garbage, rubbish, filth, fuel, small dead animals, wood or like material;
- (10) Allowing the movement of natural elements, or the accumulation, or discarding, or throwing of litter, which would include but not be limited to: trash, refuse, debris, newspapers, magazines, glass, plastic containers, or Styrofoam containers;
- (11) Depositing, maintaining or permitting to be maintained or be accumulated upon any public or private property any combustible refuse matter such as papers, sweepings, rages, grass, tree branches, wood shavings, wood, magazines, cardboard, etc.;
- (12) The accumulation of junk or litter maintained upon any premises;
- (13) Undressed hides kept longer than twenty-four hours, except at the place where they are to be manufactured, or in a storeroom or basement whose construction is approved by the health department;
- (14) To place, leave, dump or permit the accumulation of manure, garbage or anything whatever that harbors or favors the multiplication of flies, insects or rodents;
- (15) Abandoned, discarded or unused furniture, appliances, sinks, toilets, cabinets or other household figures or equipment;
- (16) Any unused refrigerator, icebox, or refrigerating unit, without the doors thereof removed;
- (17) Parking or permitting a livestock truck or trailer to remain on any street, area or public ground in a residential district when such truck or trailer gives off an offensive odor or is contaminated with manure or other filth;
- (18) The accumulation of lumber, boxes, barrels, bricks, stones or any other material unless placed on open racks that are elevated not less than eight inches above ground, and evenly piled or stacked so that such material will not afford harborage for rodents;
- (19) Accumulation of junk, old iron, or parts of motor vehicles, campers, trailers, tractors or other like property;
- (20) Any excavation or depression in which stagnant water is permitted to collect or allow for the multiplication of insects;

(21) Maintaining upon such premises or upon the sidewalk abutting or adjoining such lot, parcel, tract or piece of land, loose earth, mounds of soil, fill material, asphalt, concrete rubble or waste material of any kind (all such materials shall hereinafter be referred to as “waste materials”), (a) except for waste materials used for construction or landscaping upon premises in which case it shall be the duty of the owner, lessee, occupant or persons in possession of premises wherein waste materials exist, to maintain weed control during construction and to level or remove waste materials after construction is completed, or in any event, within eight months from time of placement of waste materials upon premises.

(b) For sites where filling, grading or excavation activities have or will span more than one year, it shall be the duty of the owner, lessees, occupant or person in possession of said premises to level or remove the waste materials from said premises at least once each year during the months of either June, July or August for the purpose of maintaining weed and rodent control.

(22) To dump, deposit, drop, throw, discard, leave, cause or permit dumping, deposition, throwing, discarding or leaving litter upon any public or private property in the city unless: (a) The property has been designated by the city or state for the disposal of litter; or (b) The litter is placed in a receptacle or other container intended by the owner or tenant in lawful possession of that property for the deposit of litter. However, no person shall deposit, dump, drop, discard or leave any litter in any receptacle or other container intended for the deposit of litter, wherever located, without the consent of the owner or person in lawful possession of that receptacle or container.

(23) The following named weeds and plants shall be deemed dangerous and unhealthy and are declared to be nuisances: ragweed, pusley, pigweed, nettle, thistle of any kind, sunflower, goldenrod, tumbleweed, burdock, cocklebur, sandbur, wild oats, sticktight, milkweed, mustard and any and all other variety of weeds and vegetation deemed to be noxious, obnoxious, dangerous and unhealthy and all weeds and grasses growing upon any lot or parcel of land in the city to a greater height than eight inches or which have gone or are about to go to seed. It shall further be the duty of the occupant, person in charge, or owner of any lot or parcel of land, in addition to said lot or parcel of land, to keep the city right-of-way, commonly known as the city boulevard, free of such nuisance vegetation.

(24) The presence of a, wrecked, dismantled, inoperable, junked or partially dismantled motor vehicle or parts thereof on private property in excess of ten consecutive days. Any vehicle fully enclosed within a building on private property and a vehicle held in connection with a lawful vehicle repair business is not deemed a nuisance. A vehicle in operable condition not legally licensed, and any vehicle specifically adopted or designed for operation on drag strips or raceways may be kept on private property if kept in a fully enclosed structure during nonracing seasons.

(25) The presence wrecked, dismantled, inoperable, junked or partially dismantled vehicle or parts thereof on public property in excess of twenty-four consecutive hours.

5-1-5

Right of entry. Whenever necessary to make an inspection to enforce any of the provisions of this Chapter, or whenever the building official has reasonable cause to believe that there exists upon any premises any condition which is prohibited

under this chapter, the building official may enter such premises at all reasonable times to inspect the same or to perform any duty imposed upon the building official; provided that if a building be occupied, the building official shall first present proper credentials and request entry, and if such building be unoccupied, she or he shall first make a reasonable effort to locate the owner or other persons having charge or control of the premises and request entry. If such entry is refused, the building official shall have recourse to every remedy provided by law to secure entry, including but not limited to the securing of a search warrant.

5-1-6 Remedies against nuisances. In the event a person shall fail to abate any nuisance created, permitted or maintained by following written notice to do so, unless such written notice is waived pursuant to this Chapter, the building official may cause such nuisance to be abated.

(A) The city may contract with private persons or business entities to accomplish the nuisance abatement as authorized by this Chapter.

(B) The cost of abatement may be assessed against the owner of the personal property abated or the owner of the real estate upon which the nuisance was located by the filing of a special assessment or the filing of a civil action in circuit court or small claims court for recovery of costs.

(C) The city may file a civil action to require a responsible party to abate the nuisance.

(D) The city may file a summons and Complaint in circuit court for violation of municipal ordinance.

5-1-7 Notice to abate – Issuance. (a) Whenever the building official becomes aware of and upon inspection thereof that any condition or conditions prohibited in this article has been created or exist on any premises located within the city, the building official officer may give a notice to abate to the occupant, person in charge or owner of the property requiring the person to abate the unlawful condition or conditions existing on the premises within a specified time frame. The building official is authorized to require that all permits be secured and the work physically commenced within such time and completed within such time as the building official shall determine is reasonable under all of the circumstances. (b) Service of such notice may be accomplished by personally delivering the notice upon either the occupant, person in charge or owner of any lot, personal service as authorized by law, or by certified mail provided the city receives confirmation of receipt.

(c). Whenever the person responsible for the creation of, or the owner, occupant or agent of, any premises in or upon which any nuisance may be found is unknown or cannot be found or given written notice through reasonable efforts, the building official may proceed to abate the nuisance without notice. The cost may be charged against the owner of the real estate upon which the nuisance was located, or, if the nuisance is on public property, the owner of the personal property located on public property.

5-1-8 Abatement by city. In the event a person shall fail to abate any nuisance created, permitted or maintained by following written notice to do so, or owner, occupant or agent of, any premises in or upon which any nuisance may be found is unknown

or cannot be found and given written notice through reasonable efforts, the building official may cause to have said nuisance abated. The building official shall prepare a statement of the expense incurred in the razing, demolishing, removing, reconstruction or other affirmative act necessary to abate the unlawful condition(s) and shall file such statement within the office of the city finance officer. Such statement shall refer to the particular premises including any improvements, structures or buildings thereon, upon which the actions taken to abate the unlawful conditions occurred. With regard to the premises or each piece of property therein referred to, the statement shall show the number of the lot and block and the name of the addition in which the lot lies or upon which the structures, improvements or buildings were located at the time that the actions to abate the unlawful conditions were taken or shall describe such premises in any other way that they may be easily identified.

- 5-1-9 Keeping of articles or property which have been declared to be a public nuisance. The city may take possession of any article or property for reasons of abating a public nuisance. If the same is believed to have any value, the city shall keep it and make an attempt to find the owner thereof, and retain any such article theretofore so taken up by it. The city shall maintain a place for the keeping of any such article until the same shall be claimed or otherwise disposed of and the city shall have a lien thereon for the reasonable expenses incurred and value or cost of the time and effort necessary in taking, removing and storing such article, and for the value of the storage in keeping thereof, and may retain possession until any and all such liens are discharged.
- 5-1-10 Notice to owner. The city shall notify, by certified mail or by personal delivery, the registered owner, if known and if encumbered, the lien holder, of the removal and storage of any property under the provisions of this Chapter and where such property has been stored. If the owner's address is unknown, or the city has been unable to provide notice through certified mail or personal delivery after reasonable attempts to do so, notice of removal and storage shall be given by one publication in the legal newspaper of the City of White Lake.
- 5-1-11 Title may vest in the city. If, after two months from the date of mailing or publishing the notice of removal and storage provided for by this chapter, the property shall remain unclaimed or if the owner thereof does not fully pay the city for its expenses incurred for the removal, towing and storage of said property, the title to such property shall be vested in the city and such property may be disposed of in any manner as may be provided by law. The proceeds of any such disposal shall first be applied to the costs incurred in the enforcement of this Chapter with the balance to be deposited to the general fund of the city.
- 5-1-12 Right to appeal from building official's determination. The owner or any person affected shall have the right of appeal to the board of appeals for investigation and review of the building official's determination of the existence of a nuisance in violation of this Chapter and requirement that said nuisance be abated. Such appeal shall be in writing, shall state with specificity the objections of the person filing the same, shall be filed with the municipal finance officer within the ten days after the

date of serving or mailing of notice to abate, and shall be presented to the board of appeals by the building official at a regular or special meeting. The board of appeals shall determine whether the person shall be required to proceed in accordance with the abatement notice or as may be modified by the board.

- 5-1-13 Notice to property owner of costs. Within thirty days after the filing of the statement referred to in Section .080 the city finance officer shall cause a statement of the costs of the abatement to be served upon the owner, agent or the owner, lessee, occupant or person in possession of the parcel of land on which the nuisance was abated. Said notice may be given personally or by first class mail addressed to the last known address of the owner as shown on the director of equalization's records. Notice shall be further given that if the costs are not paid within sixty (60) days of receipt of the statement the city may levy the costs as a special assessment against the property.
- 5-1-14 Preparation of assessment roll. Public hearing. (a) On a quarterly basis the finance officer shall prepare an assessment roll containing all costs of abating nuisances that the city elects to recover through the special assessment process. Upon completion of the assessment roll, the finance officer shall file said assessment roll with the governing board. After approval by the governing board, they shall set a public hearing date on the assessment roll. The public hearing date shall be no sooner than twenty days from the date of the meeting at which the public hearing date was set.  
(b) Thereupon the finance officer shall cause a notice of the time and place of hearing to be published in the official newspaper for two successive weeks prior to the date set for said hearing, which notice shall in general terms describe the purpose for which the said special assessment is levied, the day of the filing of the assessment roll, the time and place of the hearing thereon, and the said assessment roll will be open for public inspection at the office of the finance officer.  
(c) In addition to the publication of said notice of public hearing, the finance officer shall mail a copy of the notice, by first class certified mail addressed to the owner or owners of any property to be assessed for abatement costs at his or her address as shown by the records of the director of equalization and that such mailing shall be at least one week prior to the date set for said hearing.  
(d) At the time and place fixed for such hearing, the governing board shall meet to consider the assessment roll and hear any objections thereto. Upon such hearing it may approve, amend, or reject the same.
- 5-1-15 Public offense to interfere in removal of nuisance. It is a public offense for any person, by physical force, violence, threat of violence or physical intimidation, to intentionally interfere or attempt to interfere with the City of White Lake or its authorized representative in the removal of a nuisance.
- 5-1-16 Penalty for violation. Any person, firm or corporation violating any of the provisions of this chapter shall be guilty of violation of city ordinance and shall be guilty of a separate offense for each and every day that the violation continues and shall be subject to penalty of up to \$200 and thirty days in jail plus any court costs.

## TITLE 6: LICENSES

- Chapter 6-1 General Provisions
- Chapter 6-2 Alcoholic Beverages
- Chapter 6-3 Adult Businesses
- Chapter 6-4 Peddlers
- Chapter 6-5 Dogs/Cats
- Chapter 6-6 Junk Dealers
- Chapter 6-7 Auctioneers, Sale Rings and Transient Merchants

### Chapter 6-1: General Provisions

- 6-1-1 Licenses Required. No person shall engage in any activity for which a license is required, or for which a fee is prescribed, by this Chapter or other ordinance, without first having obtained such license.
- 6-1-2 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 Chapter, and all license fees shall be paid in full at the time of application in such manner as approved by the City Council.
- 6-1-3 License Expiration. All annual licenses granted under the provisions of this chapter shall expire on the 31st day of December next following the granting thereof, except as in this chapter 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.
- 6-1-4 Revocation. The City Council shall have power at any time to suspend or revoke any license granted under the provisions of this ordinance whenever the City Council shall be satisfied upon written complaint that any such calling, vocation, or kind of business for which said license has been issued has been made or conducted in an indecent, indecorous, improper, or illegal manner, or for failure of the licensee to comply with any ordinance or regulation of the City or State law respecting such license or the manner of exercise thereof or for other good cause, after hearing upon notice to the licensee.
- 6-1-5 Issuance of License. Except as otherwise provided, all licenses shall be issued by the Finance Officer after it has been approved by the City Council and the applicant has 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.

- 6-1-6 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. (SDCL 9-34-1)

## **Chapter 6-2: Alcoholic Beverages**

- 6-2-1 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 beverages as defined by statute, without having a license as required by South Dakota law. (SDCL 9-29-7)
- 6-2-2 Restrictions. Licenses for the sale of alcoholic beverages or malt beverages in the City of White Lake shall be submitted as prescribed by the South Dakota Codified Laws, as amended. The number of licenses approved by the City Council will not exceed the limits set by South Dakota Codified Laws 35-4-10 and 35-4-11.
- 6-2-3 Application and License Fees. In any instances in which applications may qualify, applications for licenses for the sale of wine and malt beverages and temporary licenses in the City shall be submitted as prescribed by South Dakota law. (SDCL 35-2)
- 6-2-4 Location of Business. The City Council shall not issue any licenses to any person(s), business or group where the location of such a business would not be considered desirable in accordance with South Dakota law and local regulations. (SDCL 35-2-6.1, SDCL 35-2-6.2)
- 6-2-5 Hours of Business. No person or business operating with an on and off-sale liquor operating agreement, on and off-sale wine and malt beverage license including retailer and package dealers, restaurant license, or special events/temporary alcohol license may sell, serve, or allow to be consumed any alcoholic beverage between the hours of 2:00 a.m. and 7:00 a.m. (SDCL 35-4-81 and 35-4-81.2)
- 6-2-6 Sanitation Facilities. Every on-sale dealer shall maintain upon his licensed premises toilets properly connected with the City sewer system with separate facilities for men and women. In each such facility there shall be maintained running water and towels, or approved sanitary drying facilities. Every licensee shall have such facilities equipped and maintained so as to pass state and/or local health requirements at all times. (SDCL 34-18-22)
- 6-2-7 Alcohol Beyond Premises. It shall be unlawful for any licensee who is authorized by law to sell alcoholic beverages within the City of White Lake to allow any person to take beyond the enclosed premises so licensed any unsealed can, bottle, glass, pitcher, container, or package of any kind containing alcoholic beverages.



(a) However, this section does not apply if the City Council shall give prior authorization for persons to consume or blend alcoholic beverages, but not to engage in the sale thereof, in or upon property described by the Council which property is publicly owned or owned by a nonprofit corporation. The permit period shall not exceed twenty-four (24) hours, and hours of authorized consumption shall not exceed those permitted for on-sale licensees.

(b) Any person who had violated any provisions of this ordinance shall, upon conviction therefore, be fined in an amount not to exceed One Hundred Dollars (\$100.00) plus any court costs.

- 6-2-8 Special Alcohol Beverage Licenses. A special event license is required within the municipality for any licensee licensed pursuant to subdivision SDCL 34-4-2(4), (6), (16) in addition to any other licenses held by licensee. As outlined in SDCL 35-2-3, (4), (5), no license for on-sale or off-sale retail can be granted without public hearings and notice. A request for a special events license by a licensed applicant must be published by the municipality seven (7) days prior to the event. This special event license will allow the sale of malt beverages on public property. This license may be issued for one-24-hour period or up to 15 days. The request must be approved by the governing body of the municipality. For new applications, the request requires a public hearing and needs to be published twice in the designated City newspaper and posted at City Hall during this time. The last publication has to be at least twelve (12) days prior to the event. For current malt beverage license holders, the fee is \$50.00 for one-24-hour period. If you do not have a retail malt beverage license, you may request a special events license. The fee is \$100.00 for one-24 hour or \$150.00 for up to 15-day license. If after public hearing your license is denied, the city will retain \$100.00 to cover the cost of the publications.
- 6-2-9 Sale or Gift to Minors. No person shall sell or give any alcoholic beverages to any person under the age of twenty-one (21) years.
- 6-2-10 Establishment of Municipal Liquor Store. The governing body of the City of White Lake is empowered to establish a municipal liquor store at local option under the guidelines set forth in Title 35, Chapter 3, of the South Dakota Codified Laws.
- 6-2-11 Municipal Liquor License. The municipal liquor license can be leased by the City to a private individual. The municipal operating agreement between these two parties shall contain all requirements and conditions and shall be kept on file at the office of the Finance Officer.
- 6-2-12 Violations. Any person, firm, or licensee in violation of any of the provisions of this Chapter shall be deemed guilty of a misdemeanor. Each day, after notice, that such person, firm or licensee fails to correct any violation shall constitute an additional separate offence. Whenever any person acting as clerk, servant, agent, or employee of any other person or establishment has violated any of the provisions of this Chapter that person shall also be deemed guilty as a principal. Failure to comply

with all existing requirements, including the provisions in this Chapter, shall provide cause for revocation of any license granted under the provisions of South Dakota law. (SDCL 35-2-10)

**Chapter 6-3: Adult Businesses** (SDCL 11-2)

6-3-1 Adult Uses. It is recognized that there are some businesses which because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several of them are concentrated, thereby having an adverse effect on adjacent areas. To ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding area:

- A. None of the following permitted uses may be established, operated or maintained within one-quarter (1/4) mile of a residential district, church, school, or public park:
  - 1. Adult Bookstore, adult theater, or adult photo studio.
  - 2. Any use which has as a part of its operation adult entertainment or amusement, including but not limited to, a restaurant or eating place, a bar, lounge or tavern.
  - 3. Any use intended to provide adult amusement or entertainment.
- B. Not more than two of the following permitted uses may be established, operated or maintained within one-quarter (1/4) mile of each other as measured from the closest point of the outside wall of the building, or tenant space.
  - 1. Adult bookstore, adult theater, adult photo studio, liquor store, or bar.
  - 2. Any use which has as part of its operation adult entertainment or amusement including, but not limited to, a restaurant or eating place, a bar, lounge or tavern.
  - 3. Any use intended to provide adult amusement or entertainment.
- C. The one-quarter (1/4) mile restriction provided for in Section 4-3-1 (B) may be waived and a permit issued upon proper application if the City and County find:
  - 1. 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 ordinances shall be observed.
  - 2. That the proposed use not be at a place of business, or premises licensed for the sale of alcoholic beverages.
  - 3. That the proposed use be open for business only during regular business hours between 8:00 a.m. and 1:00 a.m. Monday through Saturday and 1:00 p.m. to 6:00 p.m. on Sunday.

4. That all applicable SDCL, county, and municipal ordinances be observed by said business.

## **Chapter 6-4: Peddlers**

6-4-1        Definitions. The following definitions shall define the terms used in this Chapter.

- A. "Peddler" - any person, whether a resident of this City or not, traveling from place to place, from house to house, or from street to street for the purpose of selling or soliciting for sale of goods, products or services, other than agricultural products produced or processed in this state; and shall also mean and include any person transacting a temporary business within the City.
- B. "Temporary business" - shall not include bona fide garage or rummage sales that are not conducted at the same location more than four times per year; the duration of each sale shall not exceed four days.

6-4-2        Application for License. Any peddler wanting to do business in the City shall complete and file an application with the Finance Officer containing the following:

1. Whether the applicant, upon a sale or order, receives payment or a deposit in advance of final delivery;
2. The period of time the applicant wishes to engage in business within the City;
3. The local and permanent addresses of the applicant;
4. The kind of goods, products, or services the applicant wishes to sell;
5. The last five cities or towns the applicant has worked in;
6. Proof of a valid, effective sales tax license; and
7. An application fee of \$50.00 to be paid to the city Finance Officer.

6-4-3        Granted License. The application shall be submitted to the City Council for review. If the City Council grants the license, it shall be issued to the peddler and will be valid until December 31<sup>st</sup> of that year. If the City Council does not grant the peddler a license, the Finance Officer shall refund the application fee to the applicant. The application may be renewed by filing a renewal application and the payment of a \$35.00 fee with the Finance Officer on or before December 31<sup>st</sup> of the year in question.

6-4-4        Exceptions. The provisions of this ordinance shall not apply to the following:

1. Solicitations, sales or distributions made by charitable, educational, or religious organizations.

2. Traveling salespersons doing business exclusively with retail merchants, manufacturers, jobbers or public officials.
3. Members of professions licensed by the state that have continuing education requirements.
4. Persons selling or delivering personal property to regular customers on established routes.

6-4-5 Unlawful conduct. The following conduct shall be deemed unlawful:

1. For any peddler to remain upon a premise after having been told by the owner or possessor of the premises to leave.
2. For any peddler to make false or fraudulent statements concerning the quality or nature of his goods, products, or services.
3. To enter upon any premises posted with a sign stating "No Peddlers Allowed" or "No Soliciting".
4. To engage in the business of peddling between the hours of 8 p.m. and 9 a.m., or anytime on Sunday, except by specific appointment or invitation.
5. For any peddler to engage in business within the City without first obtaining a license to do so.
6. For any peddler to fail to display his license upon the request of any person.

6-4-6 Revocation. Any license issued under the provisions of this Chapter may be revoked for the violation by the licensee of any provision of this Chapter or South Dakota law. Upon revocation, such license shall immediately be surrendered to the city Finance Officer.

### **Chapter 6-5: Dogs/Cats**

6-5-1 Dogs and Cats Shall Not be Killed Promiscuously. No licensed dog or cat shall be killed without an attempt first been made by the Mayor or City Council to locate its owner, for which the owner shall pay said City upon surrender of his/her pet a fee determined by the City Council and on file with the Finance Officer.

6-5-2 Vicious Dogs and Cats. Any dog or cat that is known to be vicious or dangerous is hereby prohibited from being allowed to run at large in the City and shall be killed by or under the direction of the Mayor or City Council whether same is licensed or not.

6-5-3 Running at Large. It shall be unlawful for any person who keeps, harbors, maintains,

or who has in his or her control any dog or cat, to permit such dog or cat to run at large within the City.

- 6-5-4 Other Animals Running at Large. The running at large of horses, cattle, mules, asses, goats, sheep, swine, geese, turkeys, ducks, chickens, and other fowl upon the streets, alleys, and public grounds of the City is hereby declared to be a nuisance.
- 6-5-5 Restrictions. All dogs and cats must be chained or so confined at all times during all the months of the year so as not to reach the sidewalk or onto another person's property.
- 6-5-6 Control Exception. Dogs and cats may be taken out for exercise on sidewalks or streets provided they are led on a chain or leashed by someone who is capable of controlling the animal.
- 6-5-7 Keeping of Predators. The keeping of predators such as skunks, foxes, or raccoons as pets is not permitted.
- 6-5-8 Removal of Dangerous Animal. The City Council is empowered to instruct any person in the limits of the City to remove from said limits any animal deemed dangerous or a public nuisance.
- 6-5-9 Penalty: Dogs/Cats. Any person or persons violating any of the provisions of this chapter or evading or attempting to evade the provisions thereof, or who refuses to comply with the same, or who in any manner interferes with any law enforcement officer or any person engaged in carrying out the provisions in this ordinance shall be, upon conviction thereof, punished by a fine set by the City Council and on file with the Finance Officer.

## **Chapter 6-6: Junk Dealers**

- 6-6-1 Definition. The term "junk dealer" as used in this chapter shall mean any person, firm or corporation engaged in business as a junk dealer or trader in junk, old metals, rags, waste paper, green hides, old automobiles, or other articles which from their worn condition are rendered useless for the purpose for which made.
- 6-6-2 License Required. No person shall engage in business as a junk dealer as defined in this chapter without first having secured a license to do so.
- A. Exception to this provision shall be those parcels of land within the limits of the City that have been used as a junk dealer business. In the event the ownership of the business and property are transferred, the exception will no longer be valid.
- 6-6-3 Application for License. Any person desiring a license to engage in business as a junk dealer shall make a written application to the City Council which shall state the following:

- B. The length of time applicant has resided in the City;
- C. Applicant's place of residence and previous employment;
- D. The premises where the business is located. Such description shall be given by street number, or in case of a vacant lot(s), the same shall be designated by legal description together with the exact dimensions of the space to be occupied in any manner in the conducting of said business.

6-6-4 License Fee. Every junk dealer shall pay an annual license fee for each establishment or place of business that shall be set by the City Council and on file with the Finance Officer.

6-6-5 Granting of License. Upon filing of the application together with the necessary license fee, the City Council may grant a junk dealer's license by majority vote if they deem such applicant a fit and proper person to engage in such business. The Finance Officer will then issue the license.

6-6-6 Revocation of License. The City Council may at any time, for cause and upon investigation, revoke any license granted under provision of this chapter. A reasonable notice of hearing will be given to the named licensee by personal service or by mail and by filing a copy of such notice with the Finance Officer. Whenever such license is revoked, no refund of any unearned portion of the license fee shall be made.

6-6-7 Reports to be Made. Every junk dealer, upon being served with written notice to do so, shall report in writing to the City Council, either personally or through his/her designated representative, all goods, articles and things purchased or received in the course of his/her business as a junk dealer during such time period as specified in the notice. Such written report shall state the amount paid for each item and the name, residence and a general description of the person from whom such goods, articles, or other things were received.

6-6-8 Restrictions on Operations. Additional restrictions on junk dealer operations are as follows:

- A. No junk dealer shall carry on such business at any other place than the premises designated and described on the application and license. All junk of any kind shall be kept wholly within the boundaries of such premises with a seven (7) foot fence around the property where the junk is located.
- B. It shall be unlawful for any junk dealer to burn junk or refuse on the premises covered by said license or any other place in the City.
- C. If located outside the City limits and within one mile thereof, the entire business, including buying, selling, and storage must be conducted within a fence at least

seven (7) feet high. Said business and fence must be located at least two hundred (200) feet from any public highway leading into the City.

- D. Wrecking and dismantling of old cars for the purpose of securing parts shall be done wholly inside the building occupied by said junk dealer or within the enclosure hereinafter provided and shall not in any event be done upon the highway or streets of the City or outside the premises described on the application and license.
- E. In all cases where the business of a junk dealer is to be conducted on a vacant lot(s) or in a partially enclosed structure, the City Council shall have the right to determine whether or not the appearance of the lot(s) distracts from the appearance of the area in which located. No license shall be granted until such lot(s) has been enclosed with a tight fence at least seven (7) feet high or of a height sufficient to cut off public view. Such fence shall be suitably maintained and kept in good repair at all times. In no event shall any such license permit any advertising of any sort to be placed upon said fence, except that such license may use up to fifty (50) square feet for the purpose of advertising his/her business.

### **Chapter 6-7: Auctioneers, Sale Rings and Transient Merchants**

- 6-7-1 Regulations. The businesses or trades of auctioneering and maintaining or establishing a business of operating a sale ring or sale barn are hereby declared to be regulated by the City Council. No person shall exercise the business or trade of an auctioneer or sell any personal property, except household goods, livestock, and used farm machinery at public auction within the corporate limits of the City without first obtaining a license from the Finance Officer as prescribed by the provisions of the chapter.
- 6-7-2 License. Any person, firm, or corporation desiring to operate, conduct, or manage a sale ring or sale barn shall first make application to the City Council for a license for the operation of such sale ring or sale barn. If the license is granted, the fee shall be due and payable on a yearly basis, and said fee shall be valid for one (1) year after date of issue.
- 6-7-3 License Fee: Auctioneers, Sale Rings and Transient Merchant. The license fee prescribed by this chapter shall be set by the City Council and be on file with the Finance Officer.
- 6-7-4 Exception. All sales at auction by virtue of legal process are hereby excepted from the provisions of this chapter.
- 6-7-5 Supervision. The said sale ring or sale barn shall be supervised by the Mayor and Fire Department of the City, the special rules of any or all of which shall be complied with; and the premises of said sale ring or sale barn shall be kept reasonably free of all manure, filth, loose and unbaled straw, or other unbaled forage feed. The premises shall be kept sprayed at the expense of the licensee to prevent breeding of flies and other pests.

6-7-6            Transient Merchant. No transient merchant or dealer not regularly a resident of the City shall be allowed to sell within any sale ring or sale barn licensed hereunder or anywhere in the City any merchandise, goods, or wares without first having obtained a license from the Finance Officer. Such license shall be granted only after the payment to the City of the fee set by the City Council and on file with the Finance Officer. After said license is granted, it shall only be valid for two (2) consecutive days.

6-7-7            Penalty: Auctioneers, Sale Rings and Transient Merchant. Any violation of any of the provisions of this chapter shall be punishable by a fine set by the City Council and on file with the Finance Officer.



## TITLE 7: OFFENSES

### Chapter 7-1 Offenses Against Public Welfare

### Chapter 7-2 Firearms and Fireworks

### Chapter 7-3 Animals

### Chapter 7-4 Curfew

#### Chapter 7-1: Offenses Against Public Welfare

- 7-1-1        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:
- A. Commits an act in a violent and tumultuous manner toward another person that places that person in danger of life, limb, or health.
  - B. Commits an act in a violent and tumultuous manner whereby the property of any person is placed in danger of being destroyed or damaged.
  - C. 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 exhibitions duly authorized and licensed by law.
  - D. Interferes with another's pursuit of a lawful occupation by acts of violence.
  - E. 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 a law enforcement officer or other authorized official.
  - F. Is in a public place under the influence of an intoxicating liquor or drug and in such a condition as to be unable to exercise care for his/her own safety or the safety of others.
  - G. Resists or obstructs the performance of duties by a law enforcement officer or other authorized official.
  - H. Incites, attempts to incite, or is involved in attempting to incite a riot.
  - I. Addresses abusive language or threats to any law enforcement officer, or any other authorized official of the City who is engaged in the lawful performance of his duties, or any other person when such words may tend to cause acts of violence.
  - J. Damages, befouls or disturbs public property or the property of another so as to create a hazardous, unhealthy or physically offensive condition.
  - K. Makes or causes to be made any loud, boisterous, and unreasonable noise or

disturbance to the annoyance of any other persons nearby, or near any public place, whereby the public peace is broken or disturbed or the traveling public is annoyed.

- L. Fails to obey a lawful order to disperse by a law enforcement officer or other authorized official, where one or more persons are committing acts of disorderly conduct in the immediate vicinity, and the public health and safety is imminently threatened.

As used above, the following definitions shall apply:

- A. Public Place. Any place to which the general public has access 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 place of business and also public grounds, areas or parks.
- B. Riot. A public disturbance involving (i) an act or acts of violence by one or more persons as part of an assembly of three or more persons that constitutes a clear and present danger or may result in damage or injury to the property of another person or to the person of any other individual; or (ii) a threat or threats of the commission of an act or acts of violence by one or more persons as 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 or acts of violence would constitute a clear and present danger or may result in damage or injury to the property of any other person or to the person of any other individual.
- C. 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 of lawful assembly, picketing, public speaking, or lawful means of expressing public opinion. (SDCL 9-29-2 and 22-18-35)

7-1-2 Open Containers. It shall be unlawful to consume any beer or alcoholic beverage or to possess any glass, can or other container containing beer or any 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 beer or alcoholic beverages, unless approved by the City Council. (SDCL 35-1-5.3, SDCL 35-1-9.3)

7-1-3 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. (SDCL 22-34-1)

7-1-4 Tampering in General. No person in the City shall tamper with, injure, deface, destroy or remove any sign, notice, marker, fire hydrant, topographical survey

marker or monument, or any other personal property erected or placed by the City. (SDCL 22-34-1)

- 7-1-5 Indecency. No person shall expose her breasts, his or her genitals, anus or pubic area in any public place or under circumstances in which such person knows or reasonably should know that the conduct is likely to cause annoyance or alarm, nor shall any person urinate or defecate in any public place other than at facilities provided for that purpose.
- 7-1-6 Excessive Noise. Including Radios. Television Sets. Musical Instruments. and Such Similar Devices Prohibited. Using, operating, or permitting the use of operation of any radio receiving set, television set, musical instrument, drum, or other machine or device for the production or reproduction of sound in such a manner as to be plainly audible at the property boundary of the source or plainly audible at fifty (50) feet from such device when operated within a vehicle anywhere within the limits of the City, is prohibited.
- 7-1-7 Carrying Concealed Weapons. No person shall carry concealed about his/her person within the City any firearm, slingshot, dirk knife or sheath, brass knuckles, or any other weapon, which when used is likely to produce a great bodily harm or death, unless permitted by the State and possessing said permit on his/her person. Any law enforcement officer may wear or carry such weapons, as may be necessary and proper for the discharge of his/her official duties.
- 7-1-8 Penalty: Offenses Against Public Welfare. Any offense under this chapter shall be punishable by a fine set by the City Council and on file with the Finance Officer.

## **Chapter 7-2: Firearms and Fireworks**

- 7-2-1 Discharging Weapon. No person shall discharge any pistol, gun, revolver, or other firearm, any bow and arrow, or any device capable of firing a projectile either by air or compressed gas or any other means which would likely cause injury to any person, or discharge any dangerous weapon, within the City limits. Law Enforcement officers in the performance of their duties are exempted. The City Council may grant exceptions for special events or activities.
- 7-2-2 Fireworks. It shall be unlawful for any person to sell, keep for sale, or offer for sale to any person within the limits of the City of White Lake any firecrackers, fireworks cartridges, Roman Candles, rockets, or other fireworks or explosives from which firecrackers, blank cartridges, or other fireworks may be made or manufactured, unless authorized by permit from the City Council.

No person shall in the City discharge or shoot off any fireworks or firecrackers of any kind, or light or throw any fire balls or firecrackers of any kind, except from June 27 through July 5, and from December 28 through January 1, or other dates set by state unless authorized by the Mayor or City Council. (SDCL 34-37-16.1)

No person shall in the City discharge or shoot off any fireworks or firecrackers of any kind between the hours of 11:30 P.M. and 10:00 A.M. during the dates set forth unless authorized by the Mayor or City Council.

It shall be unlawful for any person to discharge or shoot off any fireworks or firecrackers of any kind from Public Property. The fine for improperly discharging fireworks on public property is one hundred (\$100.00) dollars and additional fees for littering will be assessed if applicable. Each offense is an additional fine.

Public displays of fireworks are permitted at any time with the written consent of the City Council.

7-2-3 Sale Prohibited. It shall be unlawful for any person, firm, or corporation to furnish, sell, offer for sale, keep or display for sale any fireworks within the City of White Lake unless authorized by a permit from the City Council.

7-2-4 Fireworks Banned During Burn Ban. It shall be unlawful for any person to discharge or shoot off any fireworks or firecrackers of any kind, or light or throw any fire balls or firecrackers of any kind during a Burn Ban.

### **Chapter 7-3: Animals**

7-3-1 Definitions. The following definitions shall define the terms used in this Chapter:

A. At Large.

1. An animal when off or away from the premises of the owner, possessor, keeper, or agent or servant of such person and not under the control of the owner, possessor, keeper, agent, servant, or a member of his immediate family by a leash.
2. An animal when on the premises of the owner, possessor, keeper, agent, or servant if not attended by a competent person unless the animal is chained, restrained, enclosed, or confined in a manner preventing it from leaving the premises.

B. Leash. A cord, thong, or chain, not to exceed six (6) feet in length, by which an animal is controlled by the person accompanying it.

C. 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.

7-3-2 Types of Allowable Animals. No person shall keep, maintain, harbor, or have under their control or within any structure any animal for any length of time within the City, except as otherwise provided in this title. Neither shall any structures be constructed for the purpose of housing or maintaining any animals that are designated unlawful to be kept inside the municipal boundary limits of the City.

- A. Allowable small animals/pets include those that can be bought from a commercial pet store in the State of South Dakota. Specific exclusions are any animal that would require a standard of care and control greater than that required for customary household pets, any member of the feline family other than domestic cat (*felis domesticus*), any member of the canine family other than domestic dog (*canis familiaris*), alligator, crocodile, cayman, raccoon, skunk, fox, bear, sea mammal, poisonous snakes or any snake not native to South Dakota, prairie dogs, and poisonous insects or spiders. Allowable animals authorized by this ordinance can be kept within the City municipal boundaries.
- B. No large domesticated livestock or domesticated fowl of any kind including but not limited to, horses, cows, goats, swine (including pot belly pigs), sheep, ducks, geese, chicken, pigeons, turkeys, guineas, etc. are allowed to be kept within the city limits except during special events or with special permission of the City. During special events, no person shall stake any domestic animal in such a manner as to permit it to approach within 100 feet of any residential dwelling or building used for human habitation other than that of the owner of such animal.

7-3-3 Running at Large Prohibited. It shall be unlawful for any person to have any animal that is owned, kept, harbored, or allowed to be habitually in or upon the premises occupied by him/her or under his/her control to be at large and to go in or upon the private premises of others or upon any public property. The fine for an animal running at large is fifty (\$50.00) dollars. It shall be one hundred (\$100.00) dollars for each additional offense for the same animal.

Allowing an animal to run at large as defined in the provisions of this section shall also constitute a Class 2 misdemeanor. Notwithstanding any other provision, any animal not having a visible tag and running at large may be deemed a stray and may be destroyed immediately.

7-3-4 Impoundment. The City Council shall be authorized to enter into a contract with some person or association to establish, operate and maintain an animal shelter for the City. Such contract shall provide for the enforcement of this chapter, for the impounding, destroying and disposal of animals, for a schedule of fees to be charged for services rendered, and for a monthly amount to be paid by the City. The City may, in lieu of the provisions of this section, maintain its own impoundment area or quarters, under the supervision of the City Council. All services incurred by the City will be reverted to the owner of said animal.

An owner reclaiming an impounded animal shall pay the actual cost of impoundment plus the following fee: First impoundment shall be \$25.00; second impoundment within a twelve (12) month period shall be \$50.00; any subsequent impoundment within a twelve (12) month period shall be \$100.00. Upon impounding, the owner of such animal may at any time within five (5) working days after the impoundment reclaim the animal by paying the expense of keeping such animal in addition to the fee prescribed by this section. If any animal so impounded is not reclaimed within five (5) working days, and reasonable efforts to locate the owner have failed, the City is authorized to destroy, sell, or otherwise dispose of such animal.

No person shall hinder, delay, or obstruct any law enforcement officer or other authorized official when engaged in capturing, securing or impounding any animal.

7-3-5

Compulsory Vaccination of Animals for Rabies. Every dog, cat or other animal susceptible to rabies, held as a domestic pet in the City, six months of age or older, shall be vaccinated against rabies by a licensed veterinarian. Vaccination against rabies shall be given at such intervals that 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.

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

Any animal impounded shall not be released to any person until such animal has been vaccinated against rabies; provided, however, no animal so impounded shall be vaccinated if the owner can present a certificate of a current vaccination.

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

7-3-6

Responsibility of Owner to Place Animal for Observation. When any person owning or harboring a dog, cat, or other animal has been notified that the 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 of not less than ten (10) days.

At the end of ten (10) days 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.

Any animal impounded or placed for observation, showing active signs 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.

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.

Any person who shall suspect that any animal in the City is infected with rabies, shall report the animal to the animal control officer, the City, or other health authority, describing the animal and giving the name and address of the owner if known.

Whenever the animal control officer, law enforcement officer, or other authorized official determines 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 City 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 proclamation is issued, all animals found off the premises of the owner un-muzzled shall be seized and impounded or may be immediately destroyed if all reasonable efforts to seize the animal fail. All animals seized and impounded shall be held for observation 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.

7-3-7

Vicious Animals.

- A. An animal may be declared to be vicious by the animal control officer, law enforcement officer, or other authorized official, under the following guidelines:
  - 1. An animal which, in a vicious or terrorizing manner, approaches in an apparent attitude of attack, or bites, inflicts injury, assaults or otherwise attacks a person or other animal upon the streets, sidewalks, or any public grounds or places; or
  - 2. An animal which, on private property, in a vicious or terrifying manner, approaches in an apparent attitude of attack, or bites, or inflicts injury, or otherwise attacks a mailman, meter reader, serviceman, journeyman, delivery man, an employed person of the City, law enforcement official, or any person or animal who is on private property by reason of permission of the owner or occupant of such property or who is on private property by reason of a course of dealing with the owner of such private property.
  - 3. No animal may be declared vicious if the injury or damage is sustained to any person or animal who is committing a willful trespass or other tort upon premises occupied by the owner or keeper of the animal, or who was teasing, tormenting, abusing or assaulting the animal or was committing or attempting to commit a crime.
- B. Any mammal, reptile or fowl not naturally found in a domestic setting, and because of its size or other characteristic would constitute a danger to human life or property, is automatically deemed vicious.
- C. When an animal is declared to be vicious, the City shall notify the owner of such declaration in writing. Said notice shall be served either in person or by mailing such notice by certified mail. If the owner disagrees with the finding of viciousness, he or she may request, in writing, a hearing before the Vicious/Dangerous Animal Review Board within five business days after receiving the City's notification. The Vicious/Dangerous Animal Review Board shall hold a hearing not less than three or more than 10 business days after receiving the owner's written request of such

hearing.

- D. Vicious/Dangerous Animal Review Board - the Vicious/Dangerous Animal Review Board as established by the City Council shall have the authority to review viciousness findings and determinations made by the animal control officer, law enforcement officer or other authorized official. The Board as appointed by the Mayor shall consist of a city official as head of the board, a licensed veterinarian, and a citizen of the City. The Vicious Animal Review Board shall make an independent determination of the animal's dangerousness. The decision may be issued at the hearing, but in any case, shall be issued within three business days after the hearing. Such decision shall be in writing and delivered either in person or by certified mail. All costs incurred by the City involving the Vicious/Dangerous Animal Review Board shall be passed onto the owner of said vicious/dangerous animal.
- E. The owner of an animal that has been deemed vicious by the Vicious/Dangerous Animal Review Board shall comply with the following:
1. Register the animal as vicious with the City and present proof of rabies vaccination within five (5) days of receiving the notice and presenting proof of rabies vaccination on or before March 1<sup>st</sup> of each and every year thereafter.
  2. Whenever the animal is outdoors and attended, the animal shall be muzzled, kept on a leash no longer than six (6) feet, and be under the control of a person over sixteen (16) years of age.
  3. When the animal will be outdoors and unattended, the animal must be locked in an escape-proof kennel approved by the City. Minimum standards shall include the following:
    - a. Fencing materials shall not have openings with a diameter of more than two (2) inches.
    - b. Any gates within such pen or structure shall be lockable and of such design as to prevent the entry of children or the escape of the animal.
    - c. The required pen or structure shall have secure sides and a secure top. If the pen or structure has no permanent bottom secured to the sides, the sides shall be imbedded into the ground or concrete.
    - d. The pen or structure may be required to have double exterior walls to prevent the insertion of fingers, hands or other objects.
  4. A universal sign denoting a vicious animal shall be displayed on the kennel or enclosure and on a place visible from the sidewalk or road adjacent to the property where the animal is kept.
  5. The owner of the animal shall notify the animal control officer, law enforcement officer, or other authorized official of any changes in the following:
    - a. Ownership of the animal, including name, address and telephone number of a new owner.



- b. Address changes of the owner, or any change in where the animal is housed.
  - c. Any change in the health status of the animal.
  - d. Death of the animal.
- F. The vicious animal shall be impounded by animal control at the owner's expense until all provisions of Section 5-3-7 (E) are complied with. If these conditions are not complied with within ten (10) days after receiving notice, the animal shall be euthanized in a humane manner and proof of euthanasia filed with the City.
- G. If a vicious animal has been running at large, or bites a person or another animal, the animal control officer, law enforcement officer, or other authorized official shall seize the animal by using such means as are necessary and summon the owner to appear in court to show cause why this animal should not be destroyed. If the animal cannot be safely captured, it may be destroyed.

This section shall not be construed to apply to zoological parks, performing animal exhibitions, or circuses.

- 7-3-8      Cruelty to Animals. No person shall mistreat, abuse, or neglect any animal or fowl. Any animal control officer, law enforcement officer or authorized official finding an animal or fowl mistreated as described in this section shall have the power to lawfully enter the premises where the animal is kept and demand to examine such animal and to take possession of such animal, when in his/her opinion the animal requires humane treatment.
- 7-3-9      Poisoning Animals. It shall be unlawful for any person to willfully or maliciously administer or cause to be administered poison of any sort to any animal with the intent to injure or destroy such animal, or to willfully or maliciously place any poison or poisoned food where such may be accessible to any such animal. (SDCL 9-29-11)
- 7-3-10     Stray, Abandoned, or Unkept Animals. No person shall harbor or keep any stray animal or abandon any animal within the City. Animals known to be strays shall be immediately reported to the animal control officer, law enforcement officer, or authorized official. (SDCL 9-29-12)
- 7-3-11     Number of Pets Limited. It shall be unlawful for any person to have or to keep more than six domestic pets over the age of six months, except birds and fish, on any lot or premises in the City, unless such person residing on or in the lot or premises has a valid kennel license issued by the City.

**Chapter 7-4: Curfew**

- 7-4-1      Curfew Hours and Exceptions. It shall be unlawful for any person under the age of fourteen (14) to be on the streets, alleys, or public grounds of the City between the hours of 11:00 p.m. and 6:00 a.m. [Sunday - Thursday] and between the hours of 12:00 a.m. and 6:00 a.m. [Friday - Saturday], unless accompanied by the individual's

parents or legal guardian, or unless such person is engaged in a necessary errand by written permission of a parent, guardian, or employer, in which event the person so permitted to be outdoors shall have with him/her such written permission and shall upon request of any law enforcement officer exhibit the same to said law enforcement officer. An exception to the curfew will be made in the case of activities officially sponsored by schools, churches, or the City; the curfew will extend one-half (1/2) hour beyond the time the activity ends in such cases. (SDCL 9-29-13)

7-4-2 Responsibility of Officers. It shall be the duty of any law enforcement officer of the City to arrest and detain any person who violates any of the provisions of this chapter and to keep such person detained until his or her parents, guardian, or person in control will appear before the police or other authorized personnel to answer to the charge of having violated this Chapter.

7-4-3 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 fourteen (14) 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 buildings, public places of amusement and entertainment, vacant lots or other unsupervised public places within the City between the hours stated in Section 5-4-1, 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 an emergency 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.

## **TITLE 8: STREETS, SIDEWALKS AND PUBLIC PLACES**

### **Chapter 8-1 Names of Streets and Avenues**

### **Chapter 8-2 Streets, Sidewalks, Curb and Gutter**

### **Chapter 8-3 Use of Streets and Public Places**

### **Chapter 8-4 Signs, Posts, and Awnings**

### **Chapter 8-5 Snow Removal**

### **Chapter 8-6 Municipal Trees, Public Places**

### **Chapter 8-7 Moving/Demolishing Buildings/Structures**

### **Chapter 8-8 Excavations in Public Places**

#### **Chapter 8-1: Names of Streets and Avenues**

8-1-1 Names of Streets and Avenues. The names of all streets and avenues in the City shall be fixed and adopted in accordance with the official map of the City on file in the office of the Finance Officer. Other streets shall be named in accordance with guidelines included in the City subdivision regulations. Any such act of naming, establishing, or vacating any street, alley or other public way in the City shall be so designated on such map. (SDCL 9-45-2)

8-1-2 Numbering Plan. A numbering plan for residences and businesses shall be maintained by the City Council. A listing of the assigned numbers and a map showing the location of addresses shall be maintained and filed in the Finance Office. The Finance Officer shall be responsible for assigning new numbers and the location on the map. (SDCL 9-45-2)

#### **Chapter 8-2: Streets, Sidewalks, Curb and Gutter**

8-2-1 Building and Repairs. It shall be the duty of the owner of any lot or lots within the City, when requested to do so in writing by the City Council, to build and maintain in good repair a sidewalk in front of his/her premises.

8-2-2 Materials. All public sidewalks and curbs hereafter constructed in the City shall be of cement, unless permission is obtained from the City Council for the use of other materials. Such permission, if granted, shall be given in the form of a resolution.

8-2-3 City May Construct Sidewalks. In addition to the penalty provided for any violation of any of the provisions of this chapter, the City Council may, if the lot owner fails or refuses to build any sidewalks when requested under the provisions of this chapter, cause such sidewalks to be constructed and the costs of the same to be levied against the abutting real estate and collected in the manner provided by law for collecting special assessments or as prescribed by in SDCL Ch. 9-46.

8-2-4 Width of Sidewalks. In residential districts, the lot line begins 13 feet from the curbside. The distance from the gutter to the sidewalk shall be 7 feet. The width of

the concrete sidewalk shall be 5 feet. The width of sidewalks in the business district shall be 8 feet, which starts at the curb side. The cement depth of the sidewalk shall be 3.5 inches except where the sidewalk acts as a driveway, in which case it shall be 5.5 inches.

- 8-2-5 Cleaning Sidewalks. It shall be the duty of the occupant or the owner of any lot or parcel of land in the City abutting on any alley or sidewalk to keep such sidewalk or alley or to the center thereof free from all filth, unwholesome substance or matter, manure, straw, brush, snow, or rubbish of any sort.
- 8-2-6 Supervision of Sidewalk and Curb Construction. The building and construction of all sidewalks and curbing within the limits of the streets and alleys of the City shall be done under the direct approval of the City, and all sidewalks and curbs shall be constructed on the grades as determined by the City.
- 8-2-7 Specifications. The construction of all sidewalks and curbing, whether to be done by direct contract with the City, or by contract with abutting property owners, shall be done strictly in accordance with the specifications for sidewalks and curbing adopted by the City Council and on file in the office of the Finance Officer. Any such work not done in accordance with these requirements may be condemned by the City Council.
- 8-2-8 Permit Required. Before any sidewalk or curb is constructed within the limits of the streets and alleys in the City by any contract or individual for the owner of abutting property, said contractor or person must first secure a permit from the Finance Officer.
- 8-2-9 Design of Sidewalks. No sidewalk shall be built less than five (5) feet wide, pitched more or less than one inch to the street, and beginning more or less than five feet from the lot line.
- 8-2-10 Property Owner Responsible for Sidewalk Repair. It shall be the duty of the person in possession of any lot, parcel, or plot of ground abutting upon any sidewalk to keep such sidewalk and curb in good repair as provided by SDCL 9-46-2.
- 8-2-11 Openings in Sidewalks. No permanent opening shall be made in any sidewalk in the City unless the same is covered with suitable iron covers, iron grating, or glass set in iron or cement; set level with the surface of the sidewalk; and so constructed as not to endanger any pedestrian passing over same.

### **Chapter 8-3: Use of Streets and Public Places**

- 8-3-1 Materials in Streets, Permits. The Mayor is authorized to grant permission in writing to any person to deposit and keep lumber, stone, brick, or other materials for building in any public street, road, or alley adjacent to the building to be constructed or repaired for a space of time not exceeding three (3) consecutive months, but such permission shall not allow obstruction of more than one-third (1/3) of any driveway,

sidewalk, street, road, or alley. At the expiration of such permit, the Mayor may, for good cause, renew the same for a like or shorter period of time.

Any person depositing and keeping any building materials on such sidewalk, street, road, or alley shall keep one (1) or more lights, lanterns, flares, or flashing lights so placed that such material may be easily seen by persons passing along such sidewalk, street, road, or alley and shall keep such material adequately protected and guarded so as to prevent personal injury.

- 8-3-2 Cleaning Streets or the Sidewalk of Rubbish. Every person to whom permission is granted to place and keep building materials in the sidewalk, street, road, or alley shall cause all such rubbish resulting there from to be removed from such sidewalk, street, road or alley during the permit period and any extension(s) thereof.
- 8-3-3 Crowds on Streets. It shall be unlawful for persons to gather in crowds or groups or for any person to stand on any public street or sidewalk in the City in such a manner so as to obstruct free use and passage, or to annoy other persons passing along the same. Law enforcement officials are hereby authorized to disperse any such crowd or group, or to cause the removal of any person violating the provisions of this ordinance.
- 8-3-4 Duty of Police in Dispersing Crowds. Law enforcement or other proper officials of the City are hereby authorized and directed to disperse any crowd or group of persons gathered on any street, road, alley, sidewalk, or other public ground, or to remove any person standing on the same when such person or persons obstruct free passage thereon or annoy others; and such officer may summarily arrest such person or persons. Proper complaint shall be entered against the person arrested within twenty-four (24) hours after arrest.
- 8-3-5 Building in Street. No person shall erect or maintain any building in such position that it stands in whole or in part upon any public street, road, alley, or sidewalk in this City, or be so constructed that any part of the building shall project into or over such street, road, alley, or sidewalk; provided that jutting windows, brick, cornices, and other projection from the buildings above the first story may extend over the adjoining street, road, alley, or sidewalk, not exceeding eighteen (18) inches; and no person shall construct any step area or other appurtenance to any building so extending more than thirty (30) inches, nor shall any person erect in any public street, road, alley, or sidewalk any flight of stairs leading to the second or any higher story of any building.
- 8-3-6 Obstruction on Streets. No person shall place, leave, or keep on any public street, road, alley, sidewalk, or other public ground in the City any automobile, cart, truck, sleigh, snowmobile, or other vehicle, except when the same shall be in actual use; nor shall any person place, leave or keep on any public street, road, alley, sidewalk, or other public ground in this City, any other article, substance, or material which may obstruct the free use of said street, road, alley, sidewalk or public ground except as hereinafter provided.

- 8-3-7 Eaves Pipes. No person shall place or maintain any pipes leading from the eaves of any building in such a position that the water discharged thereby will flow upon or over any public sidewalk.
- 8-3-8 Goods on Sidewalks. Any person may place above three (3) feet of the sidewalk in front of his/her premises, for a period not exceeding ten (10) hours, goods or merchandise which he or she may be receiving or delivering or may display on or over the sidewalk in front of and within two (2) feet of the buildings used by him or her as a place of business goods or merchandise for sale or exhibition. Under no circumstances shall any of the above articles be left upon the sidewalk in the nighttime or in such a way as to obstruct the sidewalk.
- 8-3-9 Hindering Street Improvement. No person shall hinder or obstruct any construction company hired by the City or any employee of the City in lawfully making any improvements or repairs on any public street, road, alley, or public grounds.
- 8-3-10 Injuring Sidewalks, Streets, Etc. No person, without proper authority, shall tear up, break, or injure any pavement, crosswalk, sidewalk, or other improvement in any street, road, alley, or public grounds in said City.
- 8-3-11 Livestock in Streets. No person shall allow any horse, mule, cow, hog, or livestock under his/her care or control to be loose on the streets or alleys of the City except when being driven through such streets and in the charge of one (1) or more competent drivers.
- 8-3-12 Duty of Police in Abating Nuisances. Law Enforcement is authorized and required to abate and remove any obstruction upon any street, road, alley, sidewalk, or other public ground. This they may do forthwith or on such notice as they deem proper, unless the Mayor or City Council otherwise direct.

#### **Chapter 8-4: Signs, Posts, and Awnings**

- 8-4-1 Signs. No person shall place, hang, or maintain on or over any sidewalk any sign which shall extend more than six (6) feet from the building to which it is attached or belongs, or be less than seven (7) feet above the sidewalk unless he/she obtains special permission from the City Council.
- 8-4-2 Posts and Awnings in the Street. No person shall set any post or other obstruction in the street, road, or alley, in the City, for the purpose of fastening thereto any awning or shed in or over any street, alley or sidewalk, in this City, nor drop or allow any awning to hang lower than seven (7) feet above the surface of the sidewalk, unless the owner of the property obtains special permission to do so from the City Council. The property owner shall be responsible for any bodily injuries or property damage arising out of the construction or placement of such obstructions.
- 8-4-3 Telephone and Electric Poles. It shall be unlawful for any person, company, or corporation to erect or maintain any poles for the purpose of stringing any telephone

or electric wires in or on the main streets in the City without written permission from the City Council.

- 8-4-4 Flags. Flags may be placed in the outer edge of the sidewalk during the daytime on State or National holidays, or when authorized by a proclamation of the Mayor, provided they are attached to staffs securely fastened to the sidewalk and standing in an upright position.
- 8-4-5 Utility Poles. All telephone poles and other utility poles shall be set inside and next to the property line.
- 8-4-6 Sign Permits. Any person desiring to erect or maintain a sign extending more than three (3) feet over a sidewalk must make written application for a permit to the City Council.

### **Chapter 8-5: Snow Removal**

- 8-5-1 Duty to Remove. It shall be the duty of the owner, tenant, or person in possession of any property abutting on any sidewalk to keep such sidewalk free from snow and to cause any accumulated snow to be removed within twenty-four (24) hours after the termination of any snowfall, or snow accumulation. When it is impossible to remove snow and ice because it is frozen to the sidewalk, the owner or occupant or person in charge of such lot shall sprinkle or spread some suitable material to prevent the walk from becoming slippery and dangerous to travel.
- 8-5-2 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, after such public street or alley has been cleared of snow by grading of such snow away from the curb or picking up and carrying away of such snow by the City, or in a manner that will obstruct or interfere with the passage or vision of vehicle or pedestrian traffic.
- 8-5-3 Vehicles Hindering Snow Removal. Any vehicle hindering snow removal shall be subject to fine and towing charges.
- 8-5-4 Removal Costs Assessed. In the event any owner, tenant, or person in possession of any property shall neglect or fail to or refuse to remove such snow or ice within the time provided, the City may issue a citation for such violation and may authorize such removal with the costs to be assessed against the abutting property owner. (SDCL 9-30-5)
- 8-5-5 White Lake City Snow Removal Policy. It is important to note that the City's snow removal operations vary depending on the amount of snow, the nature of the storm and most importantly the timing of the storm. When a snow emergency is anticipated either as a result of forecasted or existing weather condition, the Public

Works Director asks that you remove your vehicle off Main St. between the railroad tracks and 2<sup>nd</sup> Street and park behind the Main Street businesses or on the side streets until the snow removal is completed. The snow alert will terminate for this area as soon as the street has been cleared curb to curb and the snow equipment is no longer operating in that area.

It is estimated that it will take approximately 6 to 8 hours to completely open Main Street, depending on the amount of snow and the nature of the winter storm.

Snow removal operations during the early morning hours are more efficient than snow removal during the day because there is less traffic. Because no one can control the timing of a snow storm, snow plowing may occur at different hours of the day or night. Usually, the Public Works Director will begin snow plowing efforts at 4:00 AM. If snow is in the forecast, the City of White Lake asks that you please move your vehicles, trailers or other equipment off Main Street between the railroad tracks and 2<sup>nd</sup> Street so that the City's snow plow can clean the street curb to curb and to avoid possible damage to your vehicle. SDCL 9-30-2

## **Chapter 8-6: Municipal Trees, Public Places**

- 8-6-1      Authority and Jurisdiction. The City Council shall have the authority to regulate the planting, maintenance, and removal of trees on streets and other publicly owned property to ensure the public safety and to preserve the aesthetics of such public sites. The City Council shall also have the authority to determine the type and kind of trees to be planted upon municipal streets or in parks and may assist in the dissemination of news and information regarding the selection, planting, and maintenance of trees within the corporate limits or within the area over which the City has jurisdiction, whether the same be on private or public property, and to make recommendations from time to time as to desirable ordinances concerning the tree program and activities for the City. (SDCL 9-38-2)

Certain species of trees shall not be planted in the street right-of-way for any of the following reasons: high susceptibility to disease, production of large or messy fruit, and growth habit.

- 8-6-2      Duties of Property Owners. It shall be the duty of any person owning or occupying real property bordering on any street to prune or remove such trees in such manner so that they do not obstruct or shade street lights, or obstruct the passage of pedestrians on sidewalks, obstruct vision of traffic signs, or obstruct the view of any street or alley intersection. It shall also be the duty of such person to prune or remove shrubs or trees located in the street right-of-way adjacent to their property. Removal shall also be required when any shrubs or trees are diseased, dead, or a prohibited species, or pose a safety hazard or nuisance. The person owning or occupying such real property described above shall be responsible for pruning shrubs and trees, whether on the property owner's land or in the right-of-way, when the trees or shrubs violate clearance requirements. The minimum clearance of any overhanging portion thereof shall be ten (10) feet whenever practicable, and twelve (12) feet over all streets except truck thoroughfares where the clearances shall be from fourteen (14) to sixteen (16) feet, unless otherwise determined by the City Council.



- 8-6-3 Removal of Hazards. Where any trees branches or hedges protrude or overhang on any thoroughfare within the City so as to be in violation of this Chapter, good maintenance practices, or so as to affect motor vehicle traffic, notification shall be given by the City Council to the property owner to remove such obstructions or undesirable branches or hedges within seventy-two (72) hours after receipt of notice. If not completed within that time, the City Council shall take immediate action to have such items removed with all costs assessed to the property owner.
- 8-6-4 Permission to Plant and Maintain. No person shall plant, spray, fertilize, preserve, prune, remove, cut above ground, or otherwise disturb any tree on any street or municipal owned property without first receiving permission from the City Council.
- 8-6-5 Planting Trees. All trees hereafter planted along the streets in White Lake shall be planted ten (10) feet from the lot line of the abutting lot, not within five (5) feet of the street, and shall be at least ten (10) feet from any corner of a street intersection. Trees may not be planted under any power lines, wires, or cables. Any trees or shrubs heretofore planted within the limits of any street that are now deemed a menace to safety may be removed by order of the Mayor.
- 8-6-6 Abuse of Trees. Unless otherwise specifically authorized by the City Council, no person shall intentionally damage, cut, carve, transplant, or remove any tree, attach any rope, wire, nails, advertising posters, or other contrivance to any tree, allow any gaseous liquid or solid substance which is harmful to such tree to come in contact with such tree, or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any tree.
- 8-6-7 Permission to Deposit Materials. No person shall deposit, place, store, or maintain upon any public place of the municipality, any stone, brick, sand, concrete, or other materials which may impede the free passage of water, air, or fertilizer to the roots of any tree growing therein, except by permission of the City Council.
- 8-6-8 Permission to Excavate. All trees on any street or other publicly owned property near any excavation or construction of any building, structure, or street work shall be guarded with a good substantial fence, frame, or box, and all building material, dirt, or other debris shall be kept outside such barrier. No person shall excavate any ditch, tunnel, trench, or lay any drive within a radius of ten (10) feet from any public tree without first obtaining permission from the City Council.

### **Chapter 8-7: Moving/Demolishing Buildings/Structures**

- 8-7-1 Moving Building. No person shall move or demolish any building/structure or part of a building/structure into, along, or across any public street, alley or ground in the City without having first notified the City and having received a permit to ensure that proper routes and policies are followed. Any repair costs to streets, utilities, and/or any related cleanup costs that are incurred by the City due to the moving or demolishing of a building or structure shall be billed to the owners of the building or structure that was moved or demolished.

8-7-2

Application. Written application for a moving permit shall be made to the Finance Officer, accompanied by payment of a permit fee that is set by the City Council and that is on file with the Finance Officer. The application shall include, but not be limited to, the following:

- 1) The proposed location to which such building or part thereof may be moved;
- 2) The present location of the building to be moved;
- 3) At least two photographs of the building concerned, taken from different angles;
- 4) Dimensions of the building (width, length, and height) and type of construction (frame, masonry, steel, etc.);
- 5) The proposed moving route;
- 6) Signature of the applicant, date of application, and name of the bonded mover; and
- 7) A statement of the willingness of the applicant to furnish a performance bond executed to the City prior to granting of the moving permit and necessary building permits. The bond requirement may be waived in lieu of a copy of a bona fide contract to cause the moved building to conform to City and County building, plumbing, and electrical codes and in compatibility with other buildings in the proposed move-in area. Completion date of conformity to codes and area shall be no more than one hundred eighty (180) days from the date of issuance of the permit whether covered by bond or contract;

However, if such building is to be moved to any location within the City, no permit shall be granted until after a hearing on such application, which hearing will be at a regular meeting of the governing body and after five (5) days' notice of such hearing has been given by posting of not less than one sign containing notice of the hearing, in a conspicuous place on or near the property to which the application is made to move such building.

8-7-3

Bond for Movers. Before issuing such permit, the Finance Officer shall require the person, firm, or corporation who is to move the building to file in the office of the Finance Officer a written application for such permit which shall describe such building, state the location from which it is to be moved, the streets and alleys over and along which the same is to be moved, and the location to which it is proposed to move said building and shall also require a bond to be executed to the City with good and sufficient surety and conditioned for the payment of any damage that said City may be liable in consequence of the use of any street, alley or avenue for the removal of such building, and for any damage which may occur to any street, alley or avenue on account of the removal of such building, and the payment of any penalty that may be incurred by such person, firm or corporation, his/her, their, or its agents, for the violation of any of the provisions of this chapter.

Any person, firm, or corporation in the business of moving buildings may file their bond for one year covering all buildings moved by them, subject to the provisions of this chapter.

The dollar amount of the bond that is required by the City will be on file in the office of the Finance Officer.

- 8-7-4 Guarantee Fund. Whenever the Finance Officer shall decide from any other information as he/she may obtain, that the sum set by the City Council is not sufficient as a guarantee fund for ample protection of the City against the probable damages and expenses that may be caused by the removal of such building, he/she is hereby authorized to require an additional deposit set by the City Council and on file with the Finance Officer.
- 8-7-5 Permit, Contents. On the receipt of the application and the guarantee fund as hereinbefore provided, the Finance Officer may investigate the representations of the applicant and if such investigation is satisfactory, he/she shall deposit said guarantee fund with the Finance Officer to be by him/her held subject to the order of the City Council, who shall thereupon issue the said applicant a permit in writing for the removal of such building along or across the streets, highways or alleys to be designated by the Finance Officer. Said removal must be finished prior to the end time stated in such permit.
- 8-7-6 Refunding Guarantee Fund. Before refunding said guarantee fund or any part thereof, it shall be the duty of the City Council to examine the report of the Finance Officer and pay out of said fund or set aside for such purposes the amount claimed or ascertained as the damages for injuries to the public or private individuals, including the expenses of protection to telephone and other utility wires, caused or occasioned by the removal of such building.
- 8-7-7 Removing Telephone Wires, Etc. and Planking Streets. Any person, firm, or corporation to whom a permit for moving buildings is granted shall see that all telephone, electric wires or other utility poles are removed when necessary and replaced in good order, and shall be liable for the costs of the same and necessary trimming of any trees or branches en route shall be done or supervised by the City, who shall be notified by the mover of such need, and such person, firm, or corporation engaged in moving buildings shall plank all streets, alleys and avenues which are paved in such ways as to fully protect such paving or pavement from damage, and any damage to any sidewalk, pole or other City property, including the City roadways, caused by any person, firm, or corporation moving the building, shall be repaired by the City, or his/her, their sureties, shall be liable for the same.
- 8-7-8 Applicant Must Serve Notice to Owner of Wires, Etc. If the permit includes streets, alleys or highways on which are located, or across or along which are strung telephone or other utility wires, it shall be the duty of such applicant or representative to notify in writing the resident manager or managing agent or officer of such public services corporation or owner of said line or wires at least twenty-four (24) hours

before the commencement of such work, of his/her intent to move such building under or across such line or wire and of the approximate time for such crossing of line or wire by such building.

- 8-7-9      Wrecking of Buildings. No person shall wreck or tear down any building or part of a building or permit the same to be wrecked or torn down within the limits of the City until the owner thereof has notified the City Council.
- 8-7-10     Application for Permit. The permit application shall describe the building, or part of a building, which is to be wrecked or torn down. Such application shall have attached thereto a receipt from the Finance Officer of the City showing that a cash bond, set by the City Council and on file with the Finance Officer has been deposited with the Finance Officer, to be approved by the Zoning Board conditioned that if such application be granted and a permit issued to applicant to wreck or tear down the building or part of a building described in the application that he/she will conform to all regulations and requirements relating thereto which are now, or which may be hereafter established by the City Council.
- 8-7-11     Fill Excavations. As part of such application, the owner shall provide that they will promptly fill all excavations and basement left open as a result of the wrecking or tearing down of such building or part of a building and leave the premises in a safe, sanitary, and slightly condition, that they will repair and make good to the satisfaction of the City Council any damage to any City property caused by wrecking or tearing down of such building, and that they will immediately indemnify and hold harmless the City against any and all liability for damages, costs, or expenses arising from or on the part of their servants, employees or contractors in connection with the wrecking or tearing down of such building, and that all taxes and assessments shall be paid in full.
- 8-7-12     Approval of Application. Application fees are set by the City Council and on file with the Finance Officer. Cash bonds shall be deposited and filed with the Finance Officer and shall be submitted by him/her to the City Council at the next meeting. If the same shall meet with their approval, the Zoning Board Secretary shall be directed to forthwith issue to the applicant a permit to wreck or tear down the building or part of a building described in the application. If the same does not meet with their approval, the City Council shall cause the reasons for their disapproval to be endorsed upon such application and bond shall be forthwith returned to the applicant.
- 8-7-13     Buildings Not to Remain on Streets. It is unlawful for any person, firm, or corporation to allow any building for which a removal permit has been obtained, to remain upon, occupy, or stand upon any street, avenue, alley, or sidewalk for more than twenty-four (24) consecutive hours. Warning lights shall be displayed at night on buildings being moved while standing upon the streets or alleys or avenues of the City.
- 8-7-14     Damaging Streets. Any mover moving any building or structure over or across any street, sidewalk, or curb shall, when so provided in their permit, cause such street to

be protected by laying planks thereon.

- 8-7-15 City May Move Buildings. Whenever the person, firm, or corporation moving a building upon or along any street, avenue, or alley willfully or negligently permits such building, while in transit, to remain upon the street, avenue, alley, or sidewalk, the City shall have the authority and is authorized to move said building to any point or place in the City where the same shall not obstruct traffic or inconvenience the public, and the City shall keep an account of the expenses of such removal, and said person, firm, or corporation and the sureties on the bond filed, as required by the provisions of this chapter, shall be liable to the City for such expenses and the same shall be collected in any court having jurisdiction.
- 8-7-16 Conforming to Codes. All moved buildings to be located within or relocated within the City shall be brought into compliance with the building, plumbing, and electrical codes in existence at the time the building or buildings are located or relocated, and the foundation and/or basement on which the moved or relocated building will rest shall be complete and ready to accept the building prior to moving said building from the present location to the proposed location. A maximum of one hundred eighty (180) days from the date of issue of the moving permit, and other permits issued at the time of the moving permit, shall be allowed for complete compliance with this chapter.
- 8-7-17 Sewer Required to be Capped. After the moving or tearing down of any building or structure within the City the water/sewer system is required to be capped off or plugged to prevent underground water seepage. It shall be capped off using a four (4) inch cap, or other device first approved by the City Council.
- 8-7-18 Violations and Penalties. Any person, firm, or corporation violating any of the provisions of this chapter is guilty of a separate offense for each and every day or portion thereof during which any violation of any provisions of this chapter is committed, continued, or permitted. Such person, firm or corporation shall be subject to a fine in an amount set by the City Council and on file in the office of the Finance Officer for each such violation.

## **Chapter 8-8: Excavations in Public Places**

- 8-8-1 Permit Required. Any person, company, or corporation intending to make excavations in any street, alley, sidewalk, or public ground in the City for any purpose whatsoever shall file in the office of the Zoning Board Secretary a statement in writing of the place where such excavation is to be made and the estimated time of its completion; together with a written agreement executed by such person, company, or corporation, stating that such person, company, or corporation will pay to the City any and all damages which may be sustained by the City due to the failure of such person, company, or corporation to observe this ordinance. Upon the completion of these requirements, the Zoning Board Secretary shall issue a permit in writing for such excavation. No permit will be necessary in the case of emergency situations involving sewer backup or water line break, however, in such instance,

the person, company or corporation making such excavations shall remain bound by the other provisions of this ordinance, and shall be liable to the City for any and all damages which shall be sustained by the City due to failure of the person, company, or corporation to observe the other requirements of this chapter.

8-8-2 Application and Bond. Application for such permit shall be made to the Zoning Board Secretary, who shall secure the approval of the Zoning Board before issuing any such permit. Such application shall be accompanied by a fee set by the City Council and on file with the Finance Officer, which will be considered compensation to the City for the granting of such permit and the necessary investigation prior thereto. In addition to the required fee, the applicant shall deposit with the Finance Officer an amount set by the City Council and on file with the Finance Officer to secure the replacement and refilling of any such excavation. In lieu of such deposit, a bond for that purpose in an amount set by the City Council and on file with the Finance Officer, may be approved by the City Council covering all excavations for the year for which such bond is given. Before any such permit is issued, the person requiring the same shall state in his/her application thereof where such excavation is to be made, the extent thereof, in front of what lot or lots, for what purpose said excavation is to be made, and whether or not such person has a bond on file with the Finance Officer for making such excavation. If such applicant has not filed a bond, before a permit shall be issued, such applicant shall furnish a bond or make the deposit as above provided with the Finance Officer. The bond shall be used as a guaranty for the proper refilling of and guarding of such trenches and excavations while in the course of excavating or refilling. The maintenance of the same shall remain in good condition for one year thereafter.

8-8-3 Deposit Forfeited. If at any time within one year after the issuance of the permit referred to in this chapter the City Council finds that the work for which bond deposit was made does not stand a satisfactory test or has not been properly refilled, he shall notify the depositor in writing that the work must be put in satisfactory condition within three days, and if the depositor fails to comply with the terms of said notice, then the City Council shall have authority to cause such work to be put in proper and satisfactory condition and charge the expense thereof to the sum deposited. The Finance Officer shall, upon order from the City Council, return the balance unexpended at the expiration of one year from the date of such permit to the depositor.

In cases where a deposit is put up for all work done by any person as provided in this chapter, the City Council shall have power to cause the repairing of or refilling of any excavations made by such person if he fails to do so upon three days written notice, and such depositor shall immediately replenish such deposit to the original amount.

8-8-4 Supervision of Excavation. The City Council shall authorize an employee of the City to supervise all excavations made for any purpose in the streets, alleys or public grounds, and shall require that all excavations be backfilled in the manner specified.

8-8-5 Guarding Excavations. Any person, company, or corporation receiving a permit to

make excavation in any street, alley, sidewalk, or public ground shall, during the progress and continuance of the work, erect and maintain around the same both by day and night suitable guards, fences, flares, and signals so as to prevent injury to person, animals, or vehicles on account of such excavation. Such flares shall be kept lighted from sundown to sunrise.

- 8-8-6 Refilling Excavations. When excavation is completed, the person, company, or corporation making such excavation shall promptly and without delay refill the same in the manner herein provided. The dirt shall be carefully replaced and tamped in hard layers of not more than six (6") inches in depth. Where water supply is convenient, the layers of dirt should be well saturated with water so as to make the surface of the ground, when completely filled, level and as firm as before such excavation occurred.
- 8-8-7 Excavations Under Sidewalks. Any person, company, or corporation having or erecting any building abutting upon any street, alley, or sidewalk in the City of White Lake, may excavate under any sidewalk to the curb for the purposes of constructing a cellar or basement in front of or adjoining said building; provided, however, that said excavation shall be surrounded on the outer sides and end with a substantial brick, stone, or cement wall, sufficient to maintain the said sidewalk. Permission to make said excavation must first be obtained from the Zoning Board as provided for in Section 6-8-1 and also said excavation shall be securely guarded as provided for in Section 6-8-2.
- 8-8-8 Excavations Near Street. It shall be unlawful for any person, owner, or occupant of any lot or parcel of land within the City, to make or cause to be made, any excavation on said lot or parcel of land, unless the same be securely guarded so as to prevent the injury of any person or animals passing upon or along said streets, alleys, public grounds, or traveled path or roadway.
- 8-8-9 Permit Required: Excavations in Public Places. Where it is necessary to cut the street pavement in making any street excavation, there shall be deposited with the Finance Officer before permit is issued an amount set by the City Council and on file with the Finance Officer. The deposit is refundable if the area excavated is put back into the same or better condition than it was prior to the excavation.

## TITLE 9: TRAFFIC CODE

- Chapter 9-1 General Provisions
- Chapter 9-2 Operation of Vehicles
- Chapter 9-3 Vehicle Equipment
- Chapter 9-4 Speed Restrictions
- Chapter 9-5 Parking, Stopping
- Chapter 9-6 Trucks
- Chapter 9-7 Miscellaneous Provisions
- Chapter 9-8 Snowmobiles

### Chapter 9-1: General Provisions

- 9-1-1            Definitions. The following definitions shall define the terms used in this Chapter:
- A. Authorized Emergency Vehicle. Fire department vehicles, police vehicles, and such ambulances and emergency vehicles of municipal department or public service corporations as are designated or authorized by the City Council.
  - B. Law Enforcement Officer. Any police officer or other law enforcement personnel approved by the City Council to enforce the provisions of the ordinances of the City.
  - C. Motor Vehicle. Every vehicle, as herein defined, which is self-propelled.
  - D. Operator. Any person who is in actual physical possession and control of a vehicle.
  - E. Parking. The standing of a vehicle, whether attended or unattended, upon a roadway or street, other than temporarily for the purpose of and while actually engaged in loading or unloading, or in obedience to traffic regulations, signs or signals.
  - F. Vehicle. Every device in, upon, or by which any person or property is or may be transported or drawn upon a public highway.
- 9-1-2            Duty to Enforce. It shall be the duty of law enforcement officers to enforce these traffic regulations and all state vehicle laws applicable to street traffic in the City, to make arrests for traffic violations, to investigate accidents, and to cooperate with other officials in the administration of these traffic laws. (SDCL 9-29-19)
- 9-1-3            Obedience to Enforcement. No person shall refuse or fail to comply with any lawful order, signal or direction of any law enforcement officer, or refuse to submit to any lawful inspection or fail to comply with the provisions or requirements of any warning ticket issued under this Title. (SDCL 9-29-19)
- 9-1-4            Directing Traffic. Law enforcement officers shall direct traffic in conformance with traffic laws and ordinances provided that in the event of a fire or other emergency, or to expedite traffic or to safeguard pedestrians, Fire Department personnel may



direct traffic as conditions may require.

- 9-1-5 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, exempt the driver of any such vehicle from the consequence of a reckless disregard of the safety of others.
- 9-1-6 Application to Workers and Equipment. The provisions of this Title shall not apply to persons, motor vehicles or other equipment while actually engaged in work upon the surface of a street, but shall apply to such persons and vehicles when traveling to or from such work; provided however, such persons and vehicles shall not indiscriminately block traffic, but shall allow reasonable room on the traveled portion of the street for other vehicles to pass.
- 9-1-7 Authority to Install Traffic Control Devices. The City Council shall place and maintain traffic control signs, signals, and devices when and as required under this Title to make effective the provisions of said Title, and may place and maintain such additional traffic control devices as may be necessary to regulate traffic. (SDCL 32-14-5)
- 9-1-8 Obedience to Traffic Control Devices. The operator of any vehicle shall obey the instructions of any official traffic control device placed in accordance with the provisions of this Title, unless otherwise directed by a law enforcement officer subject to the exceptions granted by law to the driver of any authorized emergency vehicle.

## **Chapter 9-2: Operation of Vehicles**

- 9-2-1 Driver's License Required. It shall be unlawful for any person to drive or operate upon any of the streets or highways within the City any motor vehicle without first having secured and having in their possession a valid license or permit to do so. (SDCL 32-12-22)
- 9-2-2 License Plates. No person shall operate or drive a motor vehicle within the City without having conspicuously displayed thereon license plates as required by state law, securely fastened, and free from mud, dirt or other obstruction so that the entire license plate is clearly legible by other persons upon the highway.
- 9-2-3 Drive on Right Side of Street. The operator of a vehicle shall drive upon all streets on 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 a street unless it is impractical to do so, and except when overtaking and passing another vehicle, subject to the limitations applicable to overtaking the passing set forth by law. (SDCL 32-26-1)
- 9-2-4 Vehicles Shall Not Be Driven on Sidewalks. The operator of any vehicle except a

bicycle shall not operate it within any sidewalk area except at a permanent or temporary driveway. (SDCL 32-26-1)

- 9-2-5 Operation of Vehicles on Approach of Authorized Emergency Vehicle. The operator of any vehicle shall, upon the approach of any authorized emergency vehicle giving audible signal by lights or siren, immediately drive the vehicle 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 has passed, unless otherwise directed by a law enforcement 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 & 32-31-8)

- 9-2-6 Duty of Motorist to Slow or Stop in Obedience of School Bus Amber or Red Signal. The operator of any motor vehicle driven within the City, shall, upon meeting or overtaking a school bus on which amber warning lights are flashing, reduce speed of the vehicle to not more than twenty (20) miles per hour and proceed past the school bus with caution. An operator who meets or overtakes a school bus on which the red signal lights are flashing shall bring the vehicle to a complete stop not closer than fifteen (15) feet from the school bus and shall remain stopped until the flashing red signal lights are extinguished. (SDCL 32-32-6)

- 9-2-7 Backing Around Corners or into Intersection Prohibited. It shall be unlawful for the operator of any vehicle to back such vehicle around a corner at an intersection or into an intersection of public streets. (SDCL 32-30-20)

- 9-2-8 Reckless Driving. Any person who drives any vehicle upon a street, avenue, or alley carelessly and heedlessly in disregard of the rights or safety of others, or without due caution, and at a speed or in a manner so as to endanger or be likely to endanger any person or property, shall be guilty of reckless driving. (SDCL 32-24-1)

- 9-2-9 Careless Driving. Any person who drives any vehicle carelessly and without due caution, at a speed or in a manner so as to endanger any person or property, not amounting to reckless driving as defined in the previous section, shall be guilty of careless driving. (SDCL 32-24-8)

- 9-2-10 Exhibition Driving. Any person who drives any vehicle within the limits of the City in such a manner that creates or causes unnecessary engine noise, tire squeal, skid or slide upon acceleration or stopping; or that simulates a temporary race; or that causes the vehicle to unnecessarily turn abruptly or away, shall be guilty of exhibition driving. (SDCL 32-24-9)

- 9-2-11 Racing Prohibited. It shall be unlawful for the operator or driver of any vehicle to

race with any other vehicle on said streets or thoroughfares of the City, or to engage in any contest of speed with any other vehicle, or the driver thereof, on said streets and thoroughfares.

9-2-12 Right-of-Way at Intersection. The right-of-way rule as between vehicles at intersections is hereby declared as follows: (SDCL 32-26-13)

A. The operator of a vehicle approaching an intersection shall yield the right-of-way to a vehicle which has entered the intersection.

B. When two (2) vehicles approach an intersection at approximately the same time, operator of the vehicle at the left shall yield the right-of-way to the vehicle on the right.

C. The operator of any vehicle traveling at an unlawful speed shall forfeit any right-of-way which he may otherwise have hereunder.

9-2-13 Right-of-Way, Left Turn. The driver of a vehicle within an intersection intending to turn to the left shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard, but said driver, having so yielded and having given a signal when and as required, may make such left turn. The drivers of all other vehicles approaching the intersection from said opposite direction shall yield the right-of-way to the vehicle making the left turn.

9-2-14 Turning Around in Midblock. The operator of a vehicle shall not turn such vehicle so as to proceed the opposite direction except at an intersection or turn such vehicle so as to park on the opposite side of the street. (SDCL 32-29-2.1)

9-2-15 Action Required at Stop Sign. Except when directed to proceed by a law enforcement officer or traffic control signal, every operator of a vehicle approaching a stop intersection indicated by a stop sign shall come to a full stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or if none, then at the point nearest the intersection roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection.

After having stopped, the operator shall yield the right-of-way to any vehicle which has entered or is approaching the intersection from another highway and shall not proceed into the intersection until certain that such intersecting roadway is free from oncoming traffic which may affect safe passage. (SDCL 32-29-3)

9-2-16 Action Required at Yield Sign. The operator of a vehicle approaching an authorized sign bearing the word "Yield" or "Yield Right-of-Way" shall in obedience to such sign slow down to a speed reasonable for the existing conditions, or shall stop if necessary and shall yield the right-of-way to any pedestrian legally crossing the roadway on which such operator is driving, and to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard.

Said operator having so yielded may proceed and the operators of all other vehicles approaching the intersection shall yield to the vehicle so proceeding. (SDCL 32-29-3)

- 9-2-17 Stop Required Before Operator Entering from Alley, Building or Private Road. The operator of a vehicle emerging from an alley, building, private road or driveway within a business or residential district shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across such alley, building entrance, road or driveway, or in the event there is no sidewalk area, shall stop at the point nearest the street to be entered where said operator has a view of approaching traffic thereon. (SDCL 32-29-2.2)
- 9-2-18 Following too Closely. The operator of a vehicle shall not follow another vehicle more closely than is reasonable and prudent having due regard to the speed of such vehicles, the traffic upon such streets or highways, and the condition of the streets or highways.
- 9-2-19 Signals. Any stop or turn shall be signaled by either means of hand and arm or by a signal lamp or standard approved mechanical signaling device.
- A. At any intersection where there is displayed an official traffic sign displaying the words “No U-Turn” it shall be unlawful for the operator of any vehicle to turn such vehicle at the intersection in a complete circle or so as to proceed in the opposite direction;
- B. No person shall turn a vehicle at an intersection unless the vehicle is in proper position upon the roadway, or turn a vehicle to enter a private road or driveway, or otherwise turn a vehicle from a direct course or move right or left upon a roadway unless and until such movement can be made with reasonable safety. No person shall so turn any vehicle without giving an appropriate signal in the manner herein provided in the event any other traffic may be affected by such movements;
- C. A signal of intention to turn right or left when required shall be given continuously during no less than the last 100 feet traveled by the vehicle before turning;
- D. No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided herein to the driver of any vehicle immediately to the rear when there is opportunity to give such signal.
- 9-2-20 Slow Driving. No person shall drive any vehicle at any unnecessarily slow rate of speed so as to hinder or impede traffic.
- 9-2-21 Interfering with Snow Removal Equipment. No person shall operate a vehicle within such a distance or follow any municipal, county or state snow plow so as to interfere with the snow removal operations, or in such a manner as to cause the snow plow operator to abruptly swerve, steer, stop or divert the snow plow from such snow removal operations.

- 9-2-22 Pedestrian's Right-of-Way. (SDCL 32-27-1)
- A. The operator of any vehicle shall yield the right-of-way to a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk or at the end of a block, except at intersections where the movement of traffic is being regulated by law enforcement officers or traffic control signals.
- B. Whenever any vehicle has stopped at a marked crosswalk or at any intersection to permit a pedestrian to cross a roadway, it shall be unlawful for the operator of any other vehicle approaching from the rear to overtake and pass such stopped vehicle.
- 9-2-23 Pedestrian's Responsibility. No Pedestrian may suddenly leave a curb or other place of safety and walk or run in to the path of a vehicle which is so close as to constitute an immediate hazard.
- 9-2-24 Helmets For Minors Required. It shall be unlawful for anyone under the age of eighteen (18) to operate or ride upon a motorcycle, except a moped as defined in SDCL 32-20-1, on the public streets or alleys of the City, unless such person wears a protective helmet of any type approved by the Department of Transportation Motor Vehicle Safety Standard. (SDCL 32-20-4)

### **Chapter 9-3: Vehicle Equipment**

- 9-3-1 Warning Tickets. Any authorized law enforcement officer, upon reasonable belief that a vehicle is being operated in violation of any provision of the Title or applicable state law or is in such unsafe condition as to endanger any person, may require the driver of the vehicle to stop and submit to inspection of the vehicle and its equipment, license plates and registration card, and is hereby authorized to issue a warning ticket to any driver whose vehicle is in violation.
- Such warning ticket shall clearly designate the provisions which are being violated and shall provide for notification to law enforcement officials when such violation is corrected, by the time specified on the warning ticket.
- 9-3-2 Brakes, Horns, and Lights. Every vehicle operated or driven on any public streets or alleys shall be provided with adequate brakes that are sufficient to control such motor vehicle at all times when in use, suitable horn, and shall during the period of from one-half (1/2) hour after sunset to one-half (1/2) hour before sunrise display at least two (2) lighted lamps on the front and at least two (2) lighted red lamp on the rear of such vehicle. Motorcycles and bicycles are required to display one (1) lighted lamp on the front of such vehicle.
- 9-3-3 Emergency Vehicle Warning Device. Every law enforcement, fire department, and ambulance vehicle used for emergency calls shall be equipped with lights and siren. It shall be unlawful for any other vehicle to be so equipped.

- 9-3-4 Red and Blue Lights. Except as to law enforcement or fire department vehicles, or tow trucks or wreckers operating under such circumstances as may be provided by law, it shall be unlawful for any person to operate a vehicle in the City with any red or blue light thereon visible from directly in front or to the sides thereof.
- 9-3-5 Mufflers. No person shall operate a motor vehicle on any street within the City unless such vehicle is equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise or annoying smoke. It shall be unlawful for any person to use a muffler cut-out on any motor vehicle within the City (SDCL 32-15-17)
- 9-3-6 Projecting Loads. No person shall operate a vehicle upon any street with any load or part of a load projecting more than four (4) feet beyond the rear end or front end, or more than two (2) feet beyond the sides of the body, or carrying part of such vehicle, unless there be attached to the extreme ends and sides of such projecting load a warning sign or signal plainly discernible to other drivers which clearly indicates the projecting parts of such load.
- 9-3-7 Weight and Size of Vehicle and Loads. No person shall operate any motor vehicle upon any street the gross weight of which does not comply with state law.
- 9-3-8 Windshields Must be Unobstructed. It shall be unlawful for any person to drive any motor vehicle upon any street with its windshield or any other window obstructed by any sign, poster, or other not-transparent material other than a certificate or other paper required to be so displayed by law or other temporary driving instruction placed thereon by the manufacturer.
- 9-3-9 Protection of Load. No motor vehicle shall be driven or moved on any street unless such vehicle is so constructed or loaded as to prevent any of its load from dripping, sifting, leaking or otherwise escaping therefrom, except that sand may be dropped for the purpose of securing traction, or water or other substances may be sprinkled on a roadway in cleaning or maintaining such roadway. No person shall operate on any street any vehicle with any load unless said load and any covering is securely fastened so as to prevent said covering or load from becoming loose, detached or in any manner becoming a hazard to other users of the highway (SDCL 32-15-18)

#### **Chapter 9-4: Speed Restrictions**

- 9-4-1 Establishment of Speed Zones.
- A. The City Council may establish upon any public street limited speed zones which shall constitute the maximum speed at which any person may operate any vehicle.
  - B. The beginning of such limited speed zones shall be conspicuously indicated by sign stating the speed limit.
- 9-4-2 Speed Limits. Except as may otherwise be provided by the City Council, it shall be

unlawful for any person to operate or drive any vehicle at a rate of speed greater than the following:

- A. Fifteen (15) miles per hour within any business district.
- B. Fifteen (15) miles per hour on any alley.
- C. Twenty (20) miles per hour within any residential district.
- D. The appropriate maximum speeds established by state law on all other unmarked streets and highways within the City.

### **Chapter 9-5: Parking, Stopping**

9-5-1            Obstruction of Traffic. No vehicle shall be operated or allowed to remain upon any street under the jurisdiction of the City in such a manner as to form an unreasonable obstruction to traffic. Whenever any law enforcement officer finds a vehicle which constitutes an obstruction, such officer shall be authorized to provide for the removal of such vehicle by towing, if necessary, at the owner's expense. (SDCL 32-30-2.1, 2.2)

9-5-2            Parking in Streets During Snow Removal. Whenever there is an accumulation of two (2) inches or more of snow on the streets in the City, a snow removal emergency shall be declared, and street parking shall be prohibited. Parking on any public street shall be completely prohibited, on both sides and regardless of the directional run of that street, during the existence of a snow removal emergency. The snow removal emergency shall terminate, and parking may resume, whenever such street has been cleared of snow completely, until the next snow removal alert is declared. Fines for ticketing vehicles shall be fifty dollars (\$50.00) for each day of violation.

9-5-3            Parking Prohibited in Certain Places. It shall be unlawful for the operator of any vehicle to stop, stand, or park in any of the following places, except when necessary to avoid conflict with other traffic or in compliance with the directions of a law enforcement officer or traffic control device: (SDCL 32-30-6, 6.1, 6.2)

- A. In any intersection.
- B. In a crosswalk.
- C. Within fifteen (15) feet of a fire hydrant.
- D. At any place where the vehicle would block the use of a driveway.
- E. Within twenty (20) feet of the driveway entrance of the fire/ambulance station.
- F. On any sidewalk.

- G. At any place where official signs prohibit parking.
- H. In any public alley.
- I. Inside of curb, on street right-of-way; that being the area between the back of the curb to the property line.

9-5-4 General Parking Restrictions. No vehicle shall be parked with the left side of such vehicle next to the curb, except on one-way streets. It shall be unlawful to park any vehicle upon any street for the purpose of displaying it for sale, or to park any vehicle upon any business street from which vehicle merchandise is peddled unless authorized by the City Council. It shall be unlawful for large vehicles, otherwise parked illegally, to be parked so as to block or impede traffic. It shall be unlawful to park any motor vehicle on any private property without the consent of the owner of the property.

9-5-5 No Parking Areas. The City Council shall cause signs to be posted in all areas where parking is limited or prohibited, indicating such limitations or prohibitions, except that yellow curb painting may be used to indicate "No Parking" in certain street areas. (SDCL 9-31-1)

9-5-6 Parking and Storage of Certain Vehicles. Automotive vehicles or trailers without current license plates shall not be parked or stored on any public property or right-of-way within the City.

9-5-7 Handicapped Parking Areas. Parking in those areas so designated as handicapped parking areas by signs and pavement striping shall be restricted to those vehicles identified, by window sticker and/or license plate, as being operated by handicapped drivers. It shall be unlawful for any person to park in a handicapped area without such identification on his or her vehicle. (SDCL 32-30-11.1, 11.2, 11.3, 11.4, 11.6)

**Chapter 9-6: Trucks**

9-6-1 Definitions. The following definitions shall define the terms used in this Chapter:

- A. Truck: Any motor vehicle designed or operated for the transportation of property, including a vehicle directly connected to a trailer. The word “truck” shall include, but not be limited to, trucks, trailers, semi-trailers, tractors, and farm wagons.
- B. Motor Vehicle: All machines propelled by any power other than muscular used upon the streets or highways for the transportation of property.
- C. Trailer: A vehicle of the trailer type, without a power unit of its own, designed and used in conjunction with a motor vehicle for the transportation of property.
- D. Truck Route: Streets and highways designated as truck routes by the City Council.



- E. Street: All other streets within the City which are not designated as truck routes by the City Council.
- 9-6-2 Truck Routes. The City Council is hereby authorized to establish within the City truck routes and the same shall be identified by signs or markings erected and maintained by the City.
- 9-6-3 Operation of Trucks. Where any truck route has been established and identified, any person operating a truck having a gross weight of five (5) tons or more shall operate it only on such route or routes, except where necessary to traverse another street or streets to a destination for the purpose of loading or unloading commodities or for the purpose of towing a disabled or damaged motor vehicle to or from public or private property, and then only by such deviation from the nearest truck route as is reasonably necessary.
- 9-6-4 Exceptions to Use of Trucks Routes. There shall be the following exceptions to the use of truck routes.
- A. A truck arriving at the end of a designated truck route may be driven by the most direct course to the nearest truck route which extends in the same general direction.
  - B. The City Council shall have the authority, for good cause and upon request, to issue temporary permits for trucks to operate over routes not established as truck routes by the City or to otherwise deviate from the provisions of this Chapter.
  - C. The operator of a "Truck" as referred to in this Chapter (except semi-trailers) may deviate from the truck route for the purpose of taking such truck to the owner's personal residence or parking facility, but the truck must be parked on the owner's property and not on City streets or City property. In this instance, the vehicle shall make no more than one trip to and from the owner's personal residence or parking facility per day.
  - D. The provisions of this section shall not apply to school buses, emergency vehicles of the fire department, any public utility vehicles when engaged in the performance of emergency duties necessary to be performed by said public department or public utility, nor to any vehicle owned by or performing work for the City, the United States, or the State or any of its political subdivisions.
- 9-6-5 Parking of Trucks. All freight, stock, and gas and oil transport trucks shall be parked only at such places and in the manner as designated by the City Council. This section shall not apply to a light delivery truck delivering goods from house to house and place to place which requires a stop or parking of no more than a few minutes at a time to receive or deliver merchandise.
- 9-6-6 Trucks Standing or Parking in Alleys. Trucks shall not stand or park in any public alley except for the purpose of receiving or delivering property and for no longer time than is necessary to load or unload. Such trucks, when loading or unloading, shall stand or park on the side of the alley in a manner so as not to impede traffic.

When two or more trucks are thus standing on opposite sides of the same alley the truck last arriving shall be placed in such staggered positions as to leave sufficient space between it and the first truck for the free passage of other vehicles.

9-6-7 Dynamic Braking Devices. It shall be unlawful to operate any motor vehicle with a dynamic braking device engaged, except for the purpose of averting imminent danger. Dynamic braking device (commonly referred to as Jacobs Brake) 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.

9-6-8 Fines. The fine for not using the designated truck route shall be \$200.00 and will be payable to the City.

### **Chapter 9-7: Miscellaneous Provisions**

9-7-1 Street Closing. The City Council reserves the right to close any street to all traffic and/or to all truck and heavy equipment traffic as the City Council feels necessary to maintain the condition of the street.

9-7-2 Clinging to Moving Vehicles. It shall be unlawful for any person traveling upon any bicycle, motorcycle, coaster, sled, roller skates, or any toy vehicle to cling to or attach himself/herself or his/her vehicle to any other moving vehicle or streetcar upon any road.

9-7-3 Riding on Outside of Vehicle. No person driving a vehicle shall allow any person to ride upon any portion thereof not designated or intended for the use of passengers. This provision shall not apply to the persons riding with truck bodies in space intended for merchandise.

9-7-4 Tampering with Vehicles. It shall be unlawful for any person to tamper with the motor vehicle of another, with intent to injure the same or cause inconvenience to the owner thereof, or to operate the motor vehicle of another without the consent of the owner or person lawfully in charge thereof.

9-7-5 Immediate Notice of Accident. The operator of a vehicle involved in an accident resulting in injury to or death of any person, or resulting in any property damage, shall immediately by the quickest means of communication, give notice of such accident to a law enforcement officer.

9-7-6 When Driver Unable to Report. An accident report shall not be required from any person who is physically incapable of making such report during the period of incapacity. Whenever the operator of a vehicle is physically incapable of making such report or is physically incapable of giving an immediate notice of an accident and there is another occupant in the vehicle at the time of the accident capable of doing so, such occupant in the vehicle at the time of the accident must give such report to a law enforcement officer.

- 9-7-7 Duty to Give Information, Render Aid. The operator of any vehicle involved in an accident resulting in injury to or death of any person or damage to any vehicle which is driven or attended by any person shall give his name, address and, if applicable, the license number of the vehicle he is driving and his operator's or chauffeur's license to the person struck or to the driver or occupant of or person attending any vehicle with which the operator collides.
- 9-7-8 Personal Injury. The operator of any vehicle involved in an accident resulting in injury to or death of any person shall immediately stop such vehicle at the scene of such accident or as close thereto as possible but shall then forthwith return to and remain at the scene of the accident until fulfilling the requirements of Section 7-7-7. (SDCL 32-34-7)
- 9-7-9 Property Damage. The operator of any vehicle involved in an accident, resulting only in damage to a vehicle which is driven or attended by any person shall immediately stop such vehicle at the scene of such accident or as close thereto as possible and shall forthwith return to and remain at the scene of such accident until fulfilling the requirements of Section 7-7-7. Every such stop shall be made without obstructing traffic more than necessary.
- 9-7-10 Unattended Vehicle, Property. The operator of any vehicle which collides with any other vehicle or property which is unattended shall immediately stop and shall then and there either locate and notify the operator or owner of such vehicle of the name and address of the driver and shall attach securely in a conspicuous place in or on the vehicle struck a written notice giving the operator's name and address and a statement of the circumstances thereof. In addition, the operator shall without unnecessary delay notify a law enforcement officer of such accident. (SDCL 32-34-4)
- 9-7-11 Duty Upon Striking Fixtures. The operator of any vehicle involved in an accident resulting in only damage to fixtures of other property legally upon or adjacent to a street shall take reasonable steps to locate and notify the owner or person in charge of such property of such fact and of the operator's name and address, the registration number of the vehicle operator and shall upon request and if available exhibit his or her operator's license and shall make report of such accident when and as required by Section 7-7-9.
- 9-7-12 Manner of Arrest. Except in cases of driving while intoxicated or under the influence of intoxicating liquor or any stupefying or exhilarating drug and except in the more serious and aggravated cases of speeding or careless and reckless driving and except when reasonably necessary to secure appearance, a person arrested in the regular manner may first be given an opportunity after notice to appear voluntarily to answer for such traffic violation.
- 9-7-13 Notice to Appear. A person charged with violation of this Title by notice shall be given notice to appear before a court of competent jurisdiction at the time or within the time stated in such notice, and that in event of failure to do so a warrant will be

issued for his arrest.

The notice shall state the name, description and address of the offender, if known, the nature and date of the offence and a description of the vehicle involved in the violation by trade name and license number. The notice shall be signed by the law enforcement officer executing it.

The notice shall be made in triplicate, one copy to be given to the owner or driver charged with the offense or to be left in or upon the automobile or vehicle involved in the violation, one copy to be filed with the law enforcement officer and one copy to be filed with the court.

The person charged with the offense, if available, shall be given an opportunity to sign an agreement to appear to answer the charge at the time and place specified in the notice which form of agreement shall be a part of the notice, and if he/she refuses to sign such agreement, then he/she shall be placed under arrest for the offense in the manner otherwise provided by law.

9-7-14      Appearance and Deposit for Fine. A person who has received a notice of traffic violation shall at or within the time specified in such notice, appear before a court of competent jurisdiction to answer to the charge set forth therein according to the procedure of that court.

In cases of non-moving violations, and cases of failure to stop at a stop street, sign or signal which are not serious and aggravated cases, the person charged shall appear at the office of the Clerk of Courts and upon making the deposit for fine as authorized by the court and a statement authorizing the Clerk of Courts to enter his/her plea of guilty to the offense he/she shall not be required to appear in court.

9-7-15      Arrest on Failure to Appear. Anyone who fails to appear in response to a notice of traffic violation shall be subject to arrest in the manner otherwise provided by law.

## **Chapter 9-8: Snowmobiles**

9-8-1      Definitions. The following definitions shall define the terms used in this Chapter:

- A. Operate: To control the operation of a snowmobile.
- B. Owner: Any person, other than a lien holder, having the property in or title to a snowmobile and entitled to the use or possession thereof.
- C. Private Property: Any and all real property, or land within the City which has not been opened or dedicated for public use or as a public thoroughfare.
- D. Snowmobile: Any engine-driven vehicle of a type which utilizes sled type runners, wheels, or skis with an endless belt tread of similar means of contact with the surface upon which it is operated.

- 9-8-2 Traffic Laws Applicable. The operator of a snowmobile is required to obey all traffic laws applicable to the operators of vehicles generally, in addition to those herein set forth.
- 9-8-3 Permission of Property Owner Required for Operation. No person shall operate a snowmobile on private property of another without the express permission of the owner or occupant of such property to do so.
- 9-8-4 Operation on Public Ground. No person shall operate a snowmobile on any public property, including, but not limited to, public sidewalks, school grounds, parks, parking lots, playgrounds, and recreational areas, except public roadways and ditches.
- 9-8-5 Crossing Streets at Right Angles. Persons operating snowmobiles are permitted to cross streets at right angles but may only do so after stopping and yielding the right-of-way to all approaching traffic and crossing as closely as possible to an intersection or approach.
- 9-8-6 Speed. No person shall operate a snowmobile at a speed greater than is reasonable or proper under all existing circumstances. At a minimum, motor vehicles laws shall be followed at all times.
- 9-8-7 Careless, Reckless or Negligent Operation Prohibited. No person shall operate a snowmobile in a careless, reckless or negligent manner so as to be likely to endanger the person or property of another or to cause injury or damage thereto.
- 9-8-8 Loud Noises Prohibited. No person shall operate a snowmobile in such manner as to create any loud, unnecessary or unusual noise likely to disturb or interfere with the peace and quiet of any other person.
- 9-8-9 Emergency Use.
- A. The City Council may declare that road or weather conditions are such as to constitute emergency travel conditions authorizing use of snowmobiles.
  - B. A snowmobile may also be used when such vehicle is necessary as an emergency vehicle to protect the health, safety and welfare of any individual.
  - C. The operator of a snowmobile under emergency conditions shall be subject to all existing traffic ordinances of the City and traffic laws of the State.
- 9-8-10 Equipment Required. All snowmobiles operated in the City shall have the following equipment:
- A. Mufflers which are properly attached and which reduce the noise of operations of the vehicle to the minimum noise necessary for operating the vehicle, and no person shall use a muffler cut-out, bypass or similar device on such vehicle.

- B. Adequate brakes in good working condition.
- C. A safety or "Deadman" throttle in operating condition, such being a device which when pressure is removed from the accelerator, the throttle causes the motor to disengage from the driving belt.
- D. At least one (1) headlight and one (1) tail light in good working condition.
- E. A red flag or cloth not less than twelve (12) inches square and hung or suspended five (5) feet above the ground level so that the entire area thereof is visible from all directions while on any roadway, street or alley.

9-8-11      Towing. No person operating a snowmobile shall tow any person or object behind such snowmobile except when such person or object is situated upon a conveyance which is attached to such snowmobile by means of a rigid hitch or tow bar.

9-8-12      Exceptions. Notwithstanding the provisions of any other section, any governmental official in charge of public-school ground, park property, playground, or parking lot shall have authority to supervise and regulate events or programs conducted thereon or to designate areas under his charge and supervision as recreational areas that he shall deem available for use of snowmobiles and the hours of such use.

## **TITLE 10: ABANDONED VEHICLES**

### **Chapter 10-1 Abandoned**

### **Chapter 10-2 Duty of Property Owners**

#### **Chapter 10-1: Abandoned**

- 10-1-1      Abandoned Vehicles. No person shall abandon any vehicle within the city and no person shall leave any vehicle at any place within the city for such time and under such circumstances as to cause such vehicle reasonably to appear to have been abandoned.
- (1) Vehicle is defined as any vehicle which is designed to travel along, or on the ground or water and shall include, but not limited to, automobiles, buses, motorbikes, motorcycles, motor scooters, trucks, tractors, go-carts, golf carts, campers, trailers, boats and farm equipment
- 10-1-2      Determination of Abandoned  
Whenever any vehicle is left unattended on any public street, alley, public place or parking lot within the city for a longer period than twenty-four (24) hours without approval of the sheriff or finance officer where such vehicle is parked, it shall be deemed to be an abandoned vehicle and subject of the provisions of this article.
- 10-1-3      Leaving Non-Operating Vehicle on Street. No person shall leave any partially dismantled non-operating, wrecked or junked vehicle on any street or highway within the city.

#### **Chapter 10-2: Duty of Property Owners**

- 10-2-1      No person owning, in charge of or in control of any real property within the city, whether as owner, tenant, occupant, lessee or otherwise, shall allow an abandoned vehicle, partially dismantled, non-operating, wrecked or junked vehicle or vehicle in a state of substantial disrepair to remain on such property longer than thirty (30) days except that this section shall not apply with regard to a vehicle in an enclosed building, or to a vehicle on the premises of a business enterprise operated in a lawful place and manner when necessary to the operation of such business enterprise or to a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the city or authorized by the city. Vehicles must be current with their license and registration
- 10-2-2      Notice to Owner. It shall be the duty of the City Finance Officer or Code Enforcement Officer, to notify the registered owner in writing to the offense. If the Owner or owners of the vehicle neglect or refuse to remove the vehicle in a reasonable amount of time, to be specified in the notice, such owner or owners shall be liable for the penalty hereinafter prescribed. It is further made the duty of the

City Code Enforcement Officer to remove the vehicle immediately upon the expiration of the time period provided for in the notice hereinbefore mentioned if the same has not been abated. The City Code Enforcement Officer may abate said nuisance by whatever means he or she may consider reasonable and necessary and the City may recover the cost incurred in a civil suit or by special assessment against the real property on which the vehicle was located.



## TITLE 11: NOXIOUS WEEDS AND GRASS

### Chapter 11-1 Definitions

### Chapter 11-2 Duty of Property Owners

### Chapter 11-3 Penalty

#### Chapter 11-1: Definitions

11-1-1 The following named weeds, grass and vegetation shall be deemed dangerous and unhealthy and are declared to be nuisances: Ragweed, pusley, pigweed, nettle, thistle of any kind, sunflower, goldenrod, tumbleweed, burdock, cocklebur, sandbur, wild oats sticktight, milkweed, fireweed, mustard, barberry, creeping Jennie, quack grass, and any and all other variety of weeds and vegetation deemed to be noxious, obnoxious, dangerous and unhealthy or deemed to be a nuisance by the city

#### Chapter 11-2: Duty of Property Owner

11-2-1 Weeds and Grass. No owner of any lot, place or area within the City or the agent of such owner or the occupant of such lot, place or area, permit on such lot, place or area or upon any sidewalk abutting the same any weeds, grass or deleterious or unhealthful growths or other noxious matter that may be growing, lying or located thereon, and the growing of such weeds or other noxious or unhealthful vegetation is hereby declared to be a nuisance.

11-2-2 Notice to Destroy. The City Code Enforcement Officer or Finance Officer is hereby authorized and empowered to notify in writing the owner of any such lot, place or area within the city or the agent of such owner or the occupant of such premises, to cut destroy or remove any such weeds, grass or deleterious or unhealthful growths or other noxious matter found growing, lying or located on such property or upon the sidewalk abutting the same. Such notice shall be by certified mail addressed to said owner, agent or occupant at his known address, or by actual notice by personal contact with the owner, agent or occupant.

11-2-3 Action upon Non-compliance. Upon failure, neglect or refusal of any owner, agent or occupant so notified to comply with said notice within three (3) days after the mailing or the personal contact, the Code Enforcement Officer or Finance Officer is hereby authorized and empowered to provide for the cutting, destroying, or removal of such seeds, grass or deleterious unhealthful growths or other noxious matter and to defray the cost of the destruction thereof by special assessment against the property. You will only be notified once during the season, and all future violations will be acted upon by the City, and charges will be billed to the occupier of the land.

11-2-4 Weed and Grass Removal Costs. If the owner or occupier of the land fails to cut the weeds and/or grass, as provided for in the preceding section, the City shall cut the weeds and/or grass. The cost to the landowner shall be two hundred dollars

(\$200.00) for the first hour of cutting and one hundred dollars (\$100.00) for each additional hour of cutting, with a two hundred dollar (\$200.00) minimum charge plus any court costs incurred.

- 11-2-5 Cost Assessed. The finance officer shall cause an account to be kept against each lot for the destruction of noxious weeds and grass upon said lot as herein provided and the same certified to the City Finance Officer upon the completion of the work in destroying such weeds and abating said nuisance and the City Finance Officer shall thereupon certify said account showing the amount, the description of the property and the owner thereof to the County Auditor who shall thereupon add such assessment to the general assessment together with the regular assessment to the County Treasurer to be collected as municipal taxes for general purposes. Said assessment shall be subject to review and equalization the same as assessments or taxes for general purposes.
- 11-2-6 Recovery by City. In lieu of spreading the cost of the destruction of such noxious weeds and other deleterious matter against said property in the discretion of the city council, said amount may be recovered in a civil action against the owner or occupant of such property.
- 11-2-7 Noxious Plant and Weeds Defined. The following plants and weeds shall be deemed to be noxious, dangerous and unhealthful vegetation to wit: All species of rag weed, all species of cockle burrs species of tumbleweeds, all species of thistles, dandelions, plantains, sweet clover, and any weeds over eight (8) inches tall.
- 11-2-8 Separability. Except as may be otherwise expressly provided in this Title, all powers and authorities conferred by this Chapter shall be cumulative and additional to, and not in derogation of, any powers and authorities otherwise existing. Notwithstanding any other evidence of intent, it is hereby declared to be the controlling intent of the governing body of the City of White Lake that if any provisions of this Chapter or the application thereof to any persons or circumstances by any court of competent jurisdiction are found to be invalid, such judgment shall not affect, impair or invalidate the remainder of this code, Title of Chapter or its applications to other persons and circumstances but shall be confined in its operation to the provisions of the particular ordinance Section or Subsection thereof; or the application thereof to the persons and circumstances directly involved in the controversy in which such judgment shall have been rendered.

### **Chapter 11-3: Penalty**

- 11-3-1 Any person whose duty it is to destroy or remove such noxious weeds, grass, vegetation or other deleterious matter as set forth in the preceding sections or who fails to destroy same within the time hereinbefore set forth shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not exceeding Two Hundred Dollars (\$200.00) plus any court costs, in addition to the other penalties as prescribed in this chapter. Each day that a violation of this Chapter exists and is not cured within the notice period shall constitute a separate offense punishable.

## TITLE 12: UTILITIES

### Chapter 12-1 Utilities, General

### Chapter 12-2 Sewer

### Chapter 12-3 Water

### Chapter 12-4 Establishment of Drain Fields

#### Chapter 12-1: Utilities, General

- 12-1-1 Duties of the Sewer/Water Superintendent or Utility Operator. Under supervision of the City Council, the City employee to whom is delegated the management of waterworks shall have charge of application for service, connection, and management and shall make such suggestions for the improvement of the service as he/she may deem advisable and shall perform such other duties as the City Council may require.
- 12-1-2 Application for Water and Sewer Service. Application for water or sewer services shall be made by the owner or agent of the property in writing to the Finance Officer stating the name, address, lot and block, and the uses for which such service is desired. No permit shall be granted until the applicant agrees to comply with the terms and conditions of this title. No tap shall be made until said permit has been granted. Separate permits must be issued for each service connection, building, residence, business place and each branch connection when more than one connection is made by one service pipe. A permit must also be issued for making an extension or alteration to any plumbing of any house, store, or building beyond that for which permission may already have been granted. The cost of the permit will be on file with the Finance Officer. The permit fee is non-refundable.
- 12-1-3 Water and Sewer Connection- Cost. After a permit is granted and appropriate fees are paid, the City will at its expense provide for the extension of the water system from the mains to the applicant's property line. The City will provide the curb stop and saddle for the water connection. The Public Works Director, or any duly authorized representative thereof, shall supervise all stages of such extension and connection.
- 12-1-4 Monthly Billings. Monthly bills are categorized as follows:
- A. Utility Bills. Bills for sewer, water, or other utility services that may be provided by the City.
  - B. Special Assessments. A lot with an existing structure or curb stop, will pay the monthly special assessment of \$19.00 effective January 1, 2014. A structure is defined as any building, or part of a building, storage of lumber for construction or any arrangement of things. The charge will be billed as water surcharge of \$9.00 and sewer surcharge of \$10.00 on monthly utility billing. The City has the authority to adjust the amount of the Special Assessment charge by resolution.

C. Other Bills. Bills for the rental and purchase of property and equipment owned by the City and for the cost of miscellaneous services that may be provided by the City.

D. Deposit. A one hundred-dollar (\$100.00) deposit will be required prior to availability of service for all owner-occupied property. A deposit shall be made as a water deposit. The deposit will be returned after five years of being current and no delinquencies during the five years. The deposit will be applied as a credit transfer to the account. In the event the service is terminated for non-payment after the deposit is refunded, a deposit of one hundred (\$100.00) dollars will be required and will be held until service is terminated by owner. If more than one delinquency per year, the (\$100.00) deposit will be added and held for an additional five years.

E. Service Fee. A non-refundable service account set up fee of twenty-five dollars (\$25.00) shall be paid before water service can begin.

Water meters shall be read by the City after the 15<sup>th</sup> and before the 25<sup>th</sup> of each month. All utility bills shall be due and payable by 5:00 pm on the 10<sup>th</sup> day of the following month of the reading. All accounts not paid by 5:00 pm on the 10<sup>th</sup> shall be deemed delinquent. Upon delinquency, a late fee of 18% of the total amount of bill, with a minimum charge of \$15.00, shall also be imposed. The Finance Officer shall send written notice to the user that account is past due and water service may be terminated unless the balance is paid in full. All accounts not paid within thirty (30) days after due date, will have service terminated. A pending water shut off notice shall be delivered to the occupant of the resident requesting final payment before the water being shut off. In the event water service is terminated for non-payment, such service shall not be restored until the delinquent amount with late fee has been paid in full, plus a one hundred fifty-dollar (\$150.00) fee to cover the cost of disconnect and reconnect to restore water service.

12-1-5 Continued Service While Resident Out of City or Not Using the Water Service. Any customer planning to be gone from the City, or not currently using water and sewer service, will still be required to pay for water and sewer service. Consumers wishing to discontinue the use of any utility service shall give notice to the finance officer at city hall. Failure to do shall render them liable for the payment of all bills until such notice has been given. A twenty-five dollar (\$25.00) shut off fee will be charged. Fees for special assessments will still be due monthly.

12-1-6 Landlord Responsibility for Payments. Landlords shall be responsible for all utility payments on all of their rental property(s). An owner of all rental property, whether commercial or residential, is hereby held responsible for payment of all delinquent water, sewer, garbage, late fees and special assessment charges that are not promptly paid by the owner's tenant or tenants. The owner shall be furnished with a copy of monthly billings and delinquencies on rental properties. All accounts not paid within thirty (30) days after due date, will have service terminated. The deposit paid by the tenant will be applied to delinquent account when service is terminated.

- A. Renter Deposit. A one hundred fifty-dollar (\$150.00) deposit will be required prior to availability of service for all rental property. A deposit shall be made as a water deposit. The deposit will be returned when the user pays the account in full. If payment is not made, the deposit will be applied toward the account balance. In the event a tenant does not pay the remaining utility bill, the landowner is required and will be held responsible to pay any unpaid portion of the utility bill.
- B. Service Fee. A non-refundable service account set up fee of twenty-five (\$25.00) dollars shall be paid by renter before water service can begin.
- C. Other. Landowners must notify City of any tenant changes or request water service be terminated. Water service will only be terminated by City for delinquency of utility billing.

12-1-7 User Responsible for Operation and Maintenance of Water and Sewer Lines. The City shall be responsible for the maintenance and proper operation of the water and sewer mains only. Any other water or sewer line attached to the mains shall be the exclusive responsibility of the property owner. In the event that a property owner must excavate to repair a line, it shall be his/her responsibility to fill such excavation to the satisfaction of the City Council.

12-1-8 Liability of Service. The city shall not be liable for any damage to the property of any customer or any utility service furnished by the city due to backflow of the sewer system, failure of water supply, interruption of service, or any cause outside the direct control of the city.

12-1-8 Access to Water Meter. Any person authorized by the city shall have free access at any time to all premises supplied with any utility service by the city for the purpose of reading the water meter, general examination, or testing of equipment and related apparatuses in order to protect the utility services from abusive use.

12-1-9 Unlawful Use. No person, other than employees of the city or those hired by the city, shall be authorized to connect, turn on, turn off or disconnect any utility service offered by the city, or remove, replace or repair any equipment connected to any such utility service.

12-1-10 Interruption of Service. Consumers of any utility 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 shutoff it becomes the duty of the occupant of the premises to take prompt precautions to prevent damages.

12-1-11 Connections to Service. Connections for any utility service furnished by the city shall be paid by the applicant prior to the use of said utility service.

12-1-12 Connections to Trailer House. The owner of a trailer house shall be required to

install a meter pit for water at the owner's expense.

- 12-1-13 Investigation and Repair of Water Breaks. If City employees investigate a water break on a presumed City main and find that it is a customer service line instead, the City may repair the leak and bill the homeowner for their services.
- 12-1-14 Responsibility for Maintenance of Water Distribution System. The City of White Lake is responsible for the main up to the service shut off. The shut off and service lines to the household or business is the responsibility of the owner. The owner shall keep their service pipe and fixtures connected to the water distribution system in good repair and protected from frost and from being submerged under water for an extended period of time. The owner must prevent all unnecessary waste. The owner shall at his option have a public or private contractor do the repairs to the shut off or service line at his own expense after notifying the City for such locating of water mains, service line, or other services such as cable, phone, and power lines. In case of neglect or refusal of the owner or occupant to provide or repair the shut off within a reasonable length of time from being notified, the City shall cause it to be done and charge the expense against the premises.
- 12-1-15 Water Service Connection. When the property owner wishes a service pipe laid from the water main to curb box on either side of the main it shall be at the expense of the home or business owner.
- 12-1-16 City may shut off Water for Repairs. The City reserves the right at any time to shut off the water on the main pipe for the purpose of repairing, making connections to, extending or cleaning the same. No claim shall be made against the City by reason of the breaking of the service pipe or service curb cock, or from any damage arising from shutting off the supply or repairing, laying or relaying main hydrants or other connections. The water maintenance Supervisor shall give such reasonable notice as shall be practicable.
- 12-1-17 Water Restrictions. All water used for air cooling systems and lawn or garden sprinkling is subordinate to domestic use or fire protection and may be restricted by the City Council at any time should the scarcity of water or an emergency of any kind so require. Such restrictions shall be imposed by resolution of the City Council and notice thereof given the public by publication of such restrictions and the extent thereof, in the official newspaper, and if possible, by radio announcement at least twenty-four (24) hours before the effective date of such restrictions. It shall be unlawful for any person, firm or corporation to use City water in the manner or at the time restricted by such resolution.

## **Chapter 12-2: Sewer**

- 12-2-1 Definitions. The following definitions shall define the terms used in this Chapter:
- A. Building Drain. 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

a building and conveys it to the building sewer, beginning five (5) feet outside the inner face of the inner wall.

- C. Building Sewer. The extension from the building drain to the public sewer or other place of disposal, also called house connection.
- D. Combined Sewer. A sewer intended to receive both wastewater and storm or surface water.
- E. Easement. An acquired legal right for the specific use of land owned by others.
- F. Floatable Oil. Oil, fat, or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. Wastewater shall be considered free or floatable only if it is properly pretreated and the wastewater does not interfere with the collection system.
- G. Garbage. The animal and vegetable waste resulting from the handling, preparation, cooking, and serving of foods.
- H. Industrial Wastes. The wastewater from industrial processes, trade, or business as distinct from domestic or sanitary wastes.
- I. Natural Outlet. Any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake, or other body of surface or groundwater.
- J. Public Sewer. A common sewer controlled by a governmental agency or public utility.
- K. Sanitary Sewer. A sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions together with minor quantities of ground, storm, and surface waters that are not admitted intentionally.
- L. Sewage. The spent water of a community, also called wastewater.
- M. Sewer. A pipe or conduit that carries wastewater or drainage water.
- N. Slug. Any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period or duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration of flows during normal operation and which adversely affects the collection system and/or performance of the wastewater treatment works.
- O. Storm Drain. A drain or sewer for conveying water, groundwater, subsurface water, or unpolluted water from any source.
- P. Superintendent. The superintendent of wastewater facilities of the City, or his/her

authorized deputy, agent, or representative.

- Q. Suspended Solids. The total suspended matter that either floats on the surface of, or is suspended in, water, wastewater, or other liquid, and that is removable by laboratory filtering as prescribed in “Standard Methods for the Examination of Water and Wastewater” and referred to as non-filterable residue.
- R. Unpolluted Water. Water of quality equal to or better than the effluent criteria in effect, or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.
- S. User. All residential and non-residential users, including households, apartment dwellers, housing units, commercial establishments, industrial plants, and institutions. This term does not include residents of a nursing home.
- T. Wastewater. The spent water of a community, also called sewage. The source may be a combination of the liquid and water-carried wastes from residences, commercial establishments, industrial plants, and institutions, together with any groundwater, surface water, and storm water that may be present.
- U. Wastewater Facilities. The structures, equipment, and processes required to collect, carry away, and treat domestic and industrial wastes, and to dispose of the effluent.
- V. Wastewater Treatment Works. 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.”
- W. Watercourse. a natural or artificial channel for the passage of water either continuously or intermittently.

12-2-2 Use of Public Sewers Required.

- A. It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City, or in any area under its jurisdiction, any human or animal excrement, garbage, or other objectionable waste.
- B. Except as hereinafter provided in 8-2-2, it shall be unlawful to construct or maintain any privy, septic tank, cesspool, or other facility intended or used for the disposal of wastewater.
- C. The owner of all houses, buildings, or properties used for human occupancy, business, employment, recreation, or other purposes, situated within the City and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer, 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 four hundred (400) feet of the property line.

12-2-3 Private Wastewater Disposal.

- A. Where a public sanitary or combined sewer is not available, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this article.
- B. Before starting construction of a private sewage disposal system, the owner shall first obtain written permission from the City Council. A private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the City Council. The type, capacities, location, and layout of a private sewage disposal system shall comply with all recommendations of the City and the South Dakota Department of Environmental and Natural Resources. The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the City. No connection from any private sewage disposal system shall be made with any public sanitary sewer under jurisdiction of the City.
- C. At such time as a public sewer becomes available to a property served by a private wastewater disposal system, as provided in Section 8-2-1 (C), a direct connection shall be made to the public sewer within sixty (60) days in compliance with this ordinance, and any private wastewater disposal facilities shall be cleaned of sludge and filled with suitable material.
- D. No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the health officer.

12-2-4 Sanitary Sewers, Building Sewers and Connections.

- A. No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining written permission from the Utilities Operator.
- B. All costs and expense incidental to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be caused by the installation of the building sewer.
- C. A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway. The building sewer from the front building may be extended to the rear building and the whole considered as one building sewer, but the City does not assume any obligations or responsibility for damage

caused by or resulting from any such connection.

- D. Existing building sewers may be used in connection with new buildings only when they are found on examination by the Utilities Operator to meet all requirements of this ordinance.
- E. Whenever possible, the sewer shall be brought to the structure at an elevation below the basement floor. In all buildings in which any building drain is too low to permit a 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.
- F. No person shall make connection of roof down spouts, foundation drains, areaway drains, or other source of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer unless such connection is approved by the Utilities Operator for purposes of disposal of polluted surface drainage.
- G. The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City. 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 Utilities Operator before installation.
- H. The applicant for the building sewer shall notify the Utilities Operator 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 Utilities Operator or his representative.
- I. All excavations for building sewer installation shall be adequately guarded with barricades and lights to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of work shall be restored in a manner satisfactory to the City and at no cost to the City.

#### 12-2-5

#### Use of the Public Sewers.

- A. Storm water other than that exempted herein and all other unpolluted drainage shall be discharged to such sewers specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Utilities Operator and other regulatory agencies. Unpolluted industrial cooling water or process waters may be discharged, on approval of the Utilities Operator, to a storm sewer, combined sewer, or natural outlet approved by the Utilities Operator. No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof runoff, subsurface drainage, cooling water, or unpolluted industrial process waters to any sanitary sewer.

It shall be unlawful to discharge to any natural outlet within the City, or in any area under the jurisdiction of the City, any sanitary sewage, industrial waste, or other polluted water, except where suitable treatment has been provided in accordance

with subsequent provisions of this Title.

- B. No person shall discharge or cause to be discharged any of the following water or wastes into any public sewers:
1. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
  2. Any waters containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters for the wastewater treatment plant.
  3. Any waters or wastes having a pH lower than 5.5, or having any corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the city's wastewater system.
  4. Solid or viscous substances in quantities or of such size as to be capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the wastewater facilities. This includes, but is 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, paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
  5. The use of the sewer system of the City for the disposal of crude oil, refined oil, or any and all other petroleum products, shall be prohibited.

Grease, oil, and sand interceptors shall be provided when, in the opinion of the City Council, they are necessary for the proper handling of wastes. Where installed, such interceptors shall be maintained by the owner, at his/her expense, in continuously efficient operation at all times.

Any user discovered to have discharged any toxic pollutants into public sewer facilities, in addition to other penalties as provided by ordinance and law, shall be responsible for all costs associated with treating or otherwise disposing of such pollutants. The owner also shall maintain records of the dates, and the means of disposal, which are subject to review by the City.

- C. The disposal of garbage, cans, washers, filters, and other foreign debris into the sanitary sewer system of the City shall be prohibited.
- D. The following substances, materials, waters, or waste shall be limited in discharges to municipal systems to concentrations or quantities which will not harm either the sewers, wastewater treatment process or equipment, will not have an adverse effect on the receiving stream, and will not otherwise endanger health, public property, or

constitute a nuisance. The City Council may set limitations lower than those established in the regulations below if, in their opinion, more severe limitations are necessary to meet the above objectives.

In determining acceptability, the City Council will give consideration to such factors as the quantity of subject water 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 Public Works Director are as follows:

1. Any non-properly shredded garbage, as defined herein. 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.
  2. Any waters or wastes which, by interaction with other water or wastes in the public sewer system, release obnoxious gases, form suspended solids that interfere with the collection system, or create a condition deleterious to structures and treatment processes.
- E. If any waters or wastes are discharged or are proposed to be discharged to the public sewers containing the substances or possessing the characteristics enumerated in Section 8-2-4 (D), and which, in the judgment of the City Council, may have a deleterious effect upon the wastewater facilities, processes, equipment, or receiving waters, or which otherwise may create a hazard to life or constitute a public nuisance, the City Council may:
1. Reject the wastes.
  2. Require pretreatment to an acceptable condition for discharge to the public sewers.
  3. Require control over the quantities and rates of discharge, and/or
  4. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of this chapter.

When considering the above alternatives, the City Council shall give consideration to the economic impact of each alternative on the discharger. If the City Council 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 City Council.

Where pretreatment or flow-equalizing facilities are provided or required for any waters or wastes, they shall be maintained in satisfactory and effective operation by the owner at his expense.

- F. When required by the City Council, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable structure together with such necessary meters and other appurtenances to facilitate observation, sampling, and measurement of the wastes. Such structure shall be accessible and safely located, and shall be constructed in accordance with plans approved by the City Council. The structure shall be installed by the owner at his expense, and shall be maintained by him/her so as to be safe and accessible at all times.
- G. The Public Works Director may require a user of sewer services to provide information needed to determine compliance with this ordinance. This information may include, but is not limited to, the following:
1. Wastewater discharge peak rate and volume over a specified time period.
  2. Chemical analyses of wastewaters.
  3. Information on raw materials, processes, and products affecting wastewater volume and quality.
  4. Quantity and disposition of specific materials important to sewer use control.
  5. A plot plan showing sewer and pretreatment facility locations on the user's property.
  6. Details of wastewater pretreatment facilities.
  7. Details of systems to prevent and control spills of materials into the municipal sewer.
- H. 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, locations, times, durations, and frequencies are to be determined on an individual basis subject to approval by the Public Works Director.
- I. No statement contained in this chapter shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment.

12-2-6 Prohibited Acts. No person shall willfully or negligently damage, destroy, uncover, deface, or tamper with any structure, appurtenance or equipment which is a part of the city's wastewater facilities.

12-2-7 Powers and Authority of Inspectors.

- A. The Utilities Operator and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing pertinent to discharge to the community system in accordance with the provisions of this ordinance.
- B. The Utilities Operator or other duly authorized employees are authorized to obtain information concerning industrial processes which have a direct bearing on the kind and source of discharge to the wastewater collection system. The industry may withhold information considered confidential. The industry must establish that the revelation to the public of the information in question might result in an advantage to competitors.
- C. While performing necessary work on private properties referred to in Section 8-2-6 (A), the Utilities Operator or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to City employees, and the City shall indemnify the company against loss or damage to its property by City employees and damages 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 8-2-4 (F).
- D. The Utilities Operator and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the wastewater facilities lying within said easement. Entry and all subsequent work shall be in accordance with the terms of the easement pertaining to the private property involved.

12-2-8

Proper Design and Construction of New Sewers and Connections. The size, slope, alignment, and materials of construction of all sanitary sewers and sewer connections, and methods to be used in excavating, placing of pipe, jointing, testing, and backfilling the trench shall all conform to the requirements of the Uniform Building Code or other applicable rules and regulations of the City and the State of South Dakota.

All sanitary sewer shall be PVC; cast iron soil pipe, ASTM specification (A74-42) or equal; vitrified clay sewer pipe, ASTM specification (C13-441) or equal; or other suitable material approved by the City Council.

Additional requirements may be provided when any part of a building sewer is located near a water service pipe, or where the sewer is exposed to damage by tree roots or unstable ground.

The size and slope of sanitary sewer shall be subject to the approval of the City Council, but in no event shall the diameter be less than four (4) inches. The slope of such pipe shall be not less than one eighth inch per foot.

Whenever possible, the sewer shall be brought to the building at an elevation below the basement floor. No sewer shall be laid parallel to or within three (3) feet of any load-bearing wall, which might thereby be weakened. The depth shall be sufficient to afford protection from frost. The sewer shall be laid at uniform grade and in straight alignment insofar as possible. Changes in direction shall be made only with properly curved pipe and fittings.

The connection into the public sewer shall be made under the supervision of the Utilities Operator.

12-2-9        Disconnection. When a disconnection from the sanitary sewer is made, the sewer service shall be closed to the satisfaction of the Utilities Operator. Closure shall be at the curb line on residential property and at the property line of commercial property.

12-2-10      Hookups. Each private citizen or public entity shall pay all charges associated with a sewer hookup and no amount of sewer hookup cost shall be borne by the City.

12-2-11      Rates and Charges. When premises are vacated, any amounts due for utility service shall be paid in full and utility service shall not be commenced at another place until this is done.

A. The rates and charges for the consumption of utility services furnished by the city, as well as the charges and fees for connections thereto, shall be as determined by the city council from time to time and on file in the office of the municipal finance officer.

B. Payments of all water bills shall be monthly and are due and payable and must be paid by the tenth (10) day of each month. A penalty charge will be imposed on all delinquent bills after the due date, if not paid by the 10<sup>th</sup> day of the following month the water will be subject to shut off. The due date for payment will be shown on each water bill if the final payment date is a Sunday or a legal holiday observed by the City, then the payment must be received by midnight of the following day. In the event of shut-off, a reconnect fee as determined by the City Council shall be required. Shut off and reconnect fee will be \$75.00 each for delinquent accounts. They will remain at \$25.00 each for current accounts when requested by resident.

C. All meters will be read monthly by a person authorized by the city and amounts due for water and sewer used will be due and payable on or before the tenth (10) of the month following the lapse of the preceding month. Failure to comply with the time of payment of water bills shall subject them to the shutting off of the water service and same will not again be turned on until water bills in arrears have been paid for and an additional fee (which is on file in the finance officer's office) is paid to cover costs of shutting off and turning on the water. Water service will be restored only during business hours. The customer may contact the Finance Office and appeal the bill. If the Finance Officer deems appropriate, agreements can be

made to schedule payments for the delinquent and current billings. If the customer is not satisfied with the decision, the customer may appeal to the water committee and/or the City Council. Shut off and reconnect fee will be \$75.00 each for delinquent accounts. They will remain at \$25.00 each for current accounts when requested by resident.

- A. New Accounts with no existing sewer connection: The owner of any building newly constructed or moved on a lot, which is to be served by sewer within the City of White Lake, shall pay a connection fee of \$50.00.
- B. Initial hookup fees when sewer connection exists: The owner of any building constructed or moved on to a lot with an existing sewer connection within the City of White Lake shall pay \$25.00 for initial sewer hookup.
- C. Transfer Accounts: The new owner of any building on a lot where sewer connections are in place within the City of White Lake shall pay a transfer fee of \$25.00.

12-2-12 Renter Deposit. A \$150.00 deposit will be required prior to availability of service for all rental property. A deposit shall be made as a water deposit. The deposit will be returned when the sewer user pays the account in full. If payment is not made, the deposit will be applied toward the account balance. In the event an occupant does not pay sewer bills, the landowner is required and will be held responsible to pay any unpaid sewer bills.

12-2-13 Sewer User Charge. Each sewer customer shall pay the required minimum monthly fee per month. At its discretion, the City Council may from time to time amend these user charges by resolution. The monthly sewer use charge shall be paid each month by the user at the same time as the water use charges.

12-2-14 Separate Fund. The Finance Officer is hereby directed to maintain a separate fund for the collection and accounting of the sewer use charge in accordance with generally accepted accounting practices.

12-2-15 Violations. Any person found to be violating any provision of this ordinance shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

12-2-16 Continuing Violations. Any person who continues any violation beyond the time limit provided for in this section, shall be punishable by a fine set by the City Council and on file with the Finance Officer.

12-2-17 Penalties. Any person violating any of the provisions of this ordinance is liable to the City for any expense, loss, or damage caused to the City by such violation.



## **Chapter 12-3: Water**

- 12-3-1      Water Users. "Users of water" shall mean the owner or occupant of each individual residential or commercial premises, including, but not limited to, the owner or occupant of each apartment in a multiple family dwelling and of each mobile home in a mobile home park, but exclusive of hotel and motel facilities.
- 12-3-2      Application for Service. Any person, corporation or firm desiring the use of water from the City shall make application to the Finance Officer on a form to be supplied by the City. The application shall be signed by the applicants, and shall contain, among other information requested, the purpose for which the water is desired, a description and address of the premises which the water is to service, the name of the owner of said property, and if the applicant is not the owner, then the written consent of the owner shall accompany such application. Any person who turns on the supply of water to a service pipe from which the same has been turned-off by the City due to non-payment of water charges or for any other reason, without having first obtained permission to do so from the proper City officials, shall be subject to a fine of not less than \$200.00. A deposit fee shall be required before service is provided, as described in Section 8-3-12. Any individual or business connecting to the municipal water supply will also be required to utilize municipal wastewater and garbage services. In extenuating circumstances wastewater services may be waived if the municipality is not able to provide said service without incurring excessive expense.
- 12-3-3      Expense of Taps. All taps to the water mains and the renewal of service pipes shall be under the direction of the City Council. The City shall furnish shut-off and pipe to the curb line from the main. All expenses from the curb line to the water user are the full responsibility of the user.
- 12-3-4      Water Pipes. All corporations, stop and water cocks, goose necks, and all service and stop boxes shall be of the kind and pattern prescribed by the City Council. All service pipes must be laid as much below the surface of the ground as the main pipes in the street, and in all cases, protected so as to prevent rupture from freezing. All service pipes leading from the main to any premises, or pipes leading from such service pipes to any part of the premises, shall be 3/4-inch pipe equal to state standards. Before any pipes are connected to the City mains, or attached to any service pipes leading to any part of the premises where the water is to be used, said shall be inspected by an authorized employee of the City, and said person shall have the absolute right to refuse to allow any such pipes to be connected if deemed unfit.
- 12-3-5      Liability. All persons, businesses, etc. using water from the City's water works system for any purpose shall do so at their own risk and the City, the City Council, Finance Officer, Utilities Operator or other person in charge of the waterworks system shall not be liable or responsible for damages growing out of the overflow or stoppage of water, or any insufficient supply of the same. All owners must, at their own expense, keep their service pipe from the point of connection with the City water main and all other apparatus, in good working order and properly protected from frost or other damage. No reduction will be made from rates because of leaking

pipes or fixtures or for any other cause.

- 12-3-6 Discontinuance of Service. Any user desiring discontinuance of water service shall notify the Water Superintendent or Finance Officer prior to the first day of any month and shall continue to be liable for the payment of the water charge until such notice.
- 12-3-7 Premise to Have Separate Connection. Unless special permission is granted by the Water Superintendent, each premise shall have a separate service connection and, where permission is granted for branch service system, each system must have its own separate curb cock.
- 12-3-8 Water Connections. In installing water service, all taps shall be driven, street excavations made, curb cocks inserted, pipes installed from main to curb, and the curb cock installed in an iron box to which the service is to be connected, by a City employee or by a plumber duly licensed. After City inspection of the water system, piping from the main to the curb stop, but not including the curb stop, shall be the property of the City and maintained by it.
- 12-3-9 Water Service Pipes. The water service pipe from the street main to the water-distribution system for the building shall be of brass, copper (type K or L), cast iron, or plastic and shall be laid seven feet below the established grade, or as low as the street mains.
- 12-3-10 Curb, Stop and Waste Cocks. There shall be a curb cock in every service line attached to the water main, the same to be placed as near as possible to the street side of the sidewalk if on a street, or within one foot of the alley line if the main is located in the alley. Curb cocks shall be supplied with strong and suitable “T” handles, and shall be enclosed in a substantial iron case covered with a tight-fitting lid, with the letter “W” cast upon it. There shall be a valve in the pipe on the house side.
- 12-3-11 Water System Check Valves. Check valves are required on all water connections to steam boilers or other connections deemed by Water Superintendent to require one. Safety and relief valves shall be placed on all boilers or other steam apparatus connected with the water system where the steam pressure may be raised in excess of fifty pounds per square inch. Approved duo checks shall be installed on existing systems where work is to be done by state plumbing code, and consumers with wells shall provide cross connections protection to insure against contamination.
- 12-3-12 Rates for Water and Sewer Service. There shall hereafter be imposed a charge against all water and sewer users based upon meter readings of the amount of water consumed, as follows:
- A. A set minimum monthly fee for all residential users.
  - B. In addition to the minimum monthly fee, a usage fee, calculated at the rate of gallons of water used, will be set by the City Council and on file with the

Finance Officer.

- C. All apartment units with individual meters are charged under the normal residential users as described above. Apartment complexes without individual meters for each unit will be charged a commercial monthly fee, which will be set by the City Council and on file with the Finance Officer.

Current Rates/Policies in effect for the following users:

Residential Users – rates are on file at city hall.

Commercial Users – rates are on file at city hall.

Seasonal Disconnect/Reconnect Fees – There shall be a fee imposed to cover the cost of seasonal based disconnect and reconnect services.

Water User Deposit - All new users of water and reconnect users whose services were terminated because of delinquency shall deposit the required sum with the Finance Officer, which shall be considered a deposit.

Upon termination of water service to a water user and all utility bills (water, wastewater, special assessments and miscellaneous charges) have been paid, the Finance Officer shall refund the deposit to the water user within thirty (30) days following termination of service. If at the time of the termination of service said water user is indebted to the City for unpaid utility bills, the Finance Office may withhold such amount from the deposit and tender the balance, if any, to the terminated water user. If the water service is terminated because of delinquent account, in addition to the requirements of this section, said water user shall be required to deposit funds to restore the full \$100.00 deposit for property owners or \$150.00 for rentals.

12-3-13 Billing and Payment. All accounts shall be carried in the name of the property owner who, personally, or by his authorized agent, shall apply for such service. The Finance Officer shall prepare duplicate monthly statements of the amount due under the terms of this ordinance from each customer, and shall file one thereof in the office of the Finance Officer, and shall mail or deliver one thereof to the respective consumer. The amount shown on such statement shall be due and payable to the Finance Officer forthwith, and if not paid on or before the tenth day of the month, a penalty charge shall be added. The penalty charge will be set by the City Council and on file with the Finance Officer.

12-3-14 Separate Fund. The Finance Officer is hereby directed to maintain a separate fund for the collection and accounting of the sewer use charge in accordance with generally accepted accounting practices

12-3-15 Collection Charges. Any amount due hereunder for water charges may be collected in an action brought for that purpose in the name of the City against the water user and property owner, or the Finance Officer may certify to the County Auditor the

amount due from Water charges, including penalty, together with the legal description of the premises served with a request that the County Auditor thereupon enter such amount with the tax levy on said premises, collectible with the taxes for the ensuing year. The property owner shall be liable for water service to the premises whether or not he/she is occupying the premises, providing that nothing herein shall prevent the Water Superintendent from ordering discontinuance of service to any such premise until any such bill shall have been paid.

12-3-16 More Than One (1) Consumer from One (1) Service. Two (2) or more premises cannot be supplied from the same service pipe unless each premise has its own curb stop. Owners of buildings who lease or subdivide shall be responsible for all water used in said premises. If more than one (1) meter is placed upon one (1) service pipe, the piping must be arranged such that each meter can be set on separate pipe lines and shall be so placed that no one of them shall measure water which has passed through another meter.

12-3-17 Cutoffs. All stop boxes and cutoffs for controlling the supply of water to consumers shall be placed ten (10) feet from the property line nearest to the main where the tap is to be made with the top of the stop box even with the grade of sidewalk or parking. However, this rule shall not apply where a valve in the street, which is covered by a manhole, controls the water supply. All such cutoffs are under the control of the City. The user or owner of the premises supplied with water shall be responsible for any damage to the curb-box.

12-3-18 Meter Policy. All places supplied with water shall be metered by a meter furnished by the City and of a type approved by the City Council under the direction of the City Council or its employees. All meters shall be tested before installation and be installed under the direction of the City Council or its employees.

Any person, user, and/or business who tampers with, bypasses, or otherwise causes a false or inaccurate reading of a water meter, or who interferes with or refuses access to a City employee to said property for the purpose of inspecting or reading the water meter, shall be subject to immediate termination of water service, and shall be subject to a fine of up to \$500.

The repair of meter shall be done without cost to property owners unless the cause necessitating the repairs resulted from the property owner's negligence, misuse, or other violation of federal, state or local law. The City Public Works Superintendent shall determine if water meters which are no longer working properly need to be replaced, rather than repaired. At the time of replacement, any additional repairs needed on the property owner's pipes or property necessary to install such meter will be the sole responsibility of the property's owner.

12-3-19 Placing of Meters and Cutoff Valves. All meters shall be suitably placed on a service pipe with a compression stop and waste on the inlet side and next to the meter so as to be easily accessible and, whenever possible, not to exceed two (2) feet from the wall or place where the service pipe enters the building or structure. The meter shall be kept free from all obstructions so that it can easily be read and inspected and shall

be protected from freezing or other damage. The cutoff valve shall have a handle or wrench attaching thereto for the purpose of turning it and must be kept accessible at all times. One (1) inch and larger meters shall have cutoff valves on both inlet and outlet side. Meters of two (2) inch size or larger shall have a tee with one (1) inch opening inserted between meter and stop valve on the outlet side of the meter.

- 12-3-20 Meters Failing to Register. In cases where water meters fail to register the amount of water passing through them by being stopped up or from any cause whatsoever, the quantity used shall be determined and the charge made based upon the average amount used during two (2) or more preceding periods of similar length.
- 12-3-21 Boxes for Meters. All meters located outside of cellars must be placed in boxes. All such outside meter boxes must be constructed of brick, stone, cement or other material other than wood, and be not less than three (3) feet long and two and one-half (2 ½) feet wide, inside measurement, and must be provided with two (2) close-fitting covers so arranged as to provide a dead air space between each cover, and with steps to enable one to descend into the box. The top of the meter box shall be at grade.
- 12-3-22 Damage to Meters. If any water meter owned by the City is damaged while on the premise of a consumer by carelessness of the owner or occupant, the consumer must pay for the repairs to put said meter in good working condition or purchase a new meter. The owner shall keep their service pipe and fixtures connected to the water distribution system in good repair and protected from frost and from being submerged under water for an extended period of time.
- 12-3-23 Breaking Seals. No person shall break any seal upon any meter, valve, private fire hydrant, or other fixture that may be sealed by the direction of the City Council or its employees. Provided that the seals on private fire hydrants and private fire protection valves may be broken in case of fire and when so broken shall be reported to the City Council within twenty-four (24) hours.
- 12-3-24 Testing Meters. If a consumer doubts the accuracy of any meter, he/she may ask the Public Works Director to have the meter tested by an outside agency. If the meter is more than five (5) percent fast, proper deductions will be made from the bill from the preceding period. If the water meter is more than five (5) percent slow, the proper amount will be added to the bill. The cost of testing the meter will be borne by the customer if the meter proves to be accurate, the cost of testing the meter shall be borne by the City if the meter proves to be inaccurate. The fees for testing by an outside contractor will be determined by the contractor.
- 12-3-25 Water Shut off – Repairs. The City reserves the right to discontinue service to any or all customers of the water system without notice when necessary for repairs. No claim shall be made against the City by reason of the breaking of any service pipe or apparatus, or for any other damage that may result from shutting off water for repairing or any other purpose, or for any variation in pressure or ram of water from mains.

12-3-26 Water Shut off – Expense. When water service has been shut off due to nonpayment of bills or for violation of any of the rules and regulations of the City, it will not be turned on again until all the arrears are paid together with any additional fees as stated in this Title for shutting off and turning back on. If any person from whose premises the water has been shut off for any of the reasons herein provided shall turn the water on or cause the same to be turned on without authority from the City Council or its employees, he/she shall be deemed guilty of a misdemeanor.

12-3-27 Water Rationing. The City has the authority to impose water rationing in case of a water shortage or repairs to the water system, on a basis to be determined by resolution of the City Council. Notice of water rationing may be given to the public by publication of restriction in the official newspaper or if possible, by radio or TV announcement at least twenty-four (24) hours in advance of the effective date of such restriction, or by posting a sign stating such at the White Lake Post Office; and it shall be unlawful for any person, firm, or corporation, to use City water in the manner or at the times restricted by such resolution.

12-3-28 Use of Water during Fires. During a time of fire, the use of water for lawn purposes is prohibited, and any person violating this section is guilty of a misdemeanor.

12-3-29 Drilling of Wells.

A) Drilling prohibited generally. It shall be unlawful for any person to drill a water well for the purpose of extracting water.

B) Drilling in case of extraordinary or emergency circumstances. In a case of extraordinary circumstances or an emergency making it necessary for such a well to be drilled, and prior to the commencement of drilling, a person may make application to the City for a drilling permit. The City Council shall hold a hearing on such application and may, after hearing and upon appropriate findings, authorize the issuance of such a permit. Upon application and hearing, the applicant shall be required to show:

1. That there exists an urgent necessity for the drilling of such well;
2. That it is impracticable or impossible to obtain the necessary water from other sources and the reason(s) why it is impracticable or impossible;
3. That the proposed well will not constitute a breach or violation of the terms and provisions of any subdivision restrictions or restrictive land covenants that may be in force and effect; and
4. That the proposed well will not represent a potential hazard to residential subdivisions or properties in residential use, either adjoining or abutting the proposed drilling site.

The applicant must show the specific safety standards that will be established and instituted to prevent injury to the health, safety and well-being of the

residents, citizens, and inhabitants of the City. At the time of hearing, the City Council may inquire into such circumstances and conditions which it may find to exist which either justify the issuance of a permit hereunder or which necessitates the denial of such a permit upon a determination of the likely impact of such drilling on the health, safety and well-being of the residents, citizens and inhabitants of the City.

- C) Drilling for City Services Purposes. Nothing herein shall prevent the drilling of necessary wells by the City or by contractors authorized by the City as to such drilling for the purposes of providing necessary City services, or by any lawfully created and existing municipal utility district or other body politic which may be created from time to time and be charged with the function of providing City service or services customarily provided by the City.

12-3-30 Penalty: Water. A person who violates this ordinance is guilty of a separate offense for each day or part of day the violation is committed, permitted, or continues. Each offense, upon conviction, is punishable by a fine set by the City Council and on file with the Finance Officer.

#### **Chapter 12-4: Establishment of Drain Fields.**

12-4-1 Regulations. It shall be unlawful for any person, firms, or corporations to establish new drain fields within City limits. Exceptions may be granted by council for approved septic systems.

## **TITLE 13: MODULAR MANUFACTURED AND MOBILE HOME PROVISIONS**

### **Chapter 13-1 Modular Manufactured Homes and Standards**

#### **Chapter 13-2 Mobile Homes Types**

#### **Chapter 13-3 Installation Standards**

#### **Chapter 13-4 Moving a Mobile Home**

### **Chapter 13-1: Modular Manufactured Homes and Standards**

- 13-1-1 In order to be allowed within City limits, modular homes shall meet or exceed all of the following requirements:
- A. Shall meet or exceed the International Building Codes.
  - B. Will include all off-site constructed homes, which may be transported to the site in one or more sections.
  - C. Shall have an area of more than 1,000 square feet in ranch style, or 850 square feet split level, and shall be placed on a permanent foundation that is to a depth below the frost line.
  - D. Shall have a minimum of a 3 1/2 roof pitch.

### **Chapter 13-2: Mobile Home Types and Standards.**

- 13-2-1 In order to be allowed within City limits, Type I manufactured homes shall meet or exceed the following requirements:
- A. Have more than 1,100 square feet of occupied space in a double-section or larger multi-section unit. No mobile home shall be brought into the City of White Lake that is less than fourteen (14) feet in width, unless the move has received prior approval from the City Council.
  - B. The age of the manufactured home may not exceed ten (10) years from the date of manufacture.
  - C. A double-section or larger multi-section unit must be placed on a permanent foundation that is to a depth below the frost line.
  - D. Utilize a permanent perimeter enclosure in accordance with approved installation standards, as specified in the International Building Code.
  - E. Be anchored to the ground in accordance with manufacturer's specifications, or as prescribed by ANSI/NFPA 501A standards.



- F. Have a gabled roof with a pitch of at least 1 ½ feet.
- G. Have a siding material of a type customarily used on site-constructed residences.
- H. Have roofing material of a type customarily used on site-constructed residences.
- I. Within 60 days of placement of home, permanent entry steps must be placed on each entrance of home. Steps must meet all building, and safety codes in existence.

13-2-2

In order to be allowed within City limits, Type II manufactured homes shall meet or exceed the following requirements:

- A. Have more than 700 square feet of occupied space in a single, double, expand, or multi-section unit.
- B. Utilize a permanent perimeter enclosure in accordance with approved installation standards, as specified in Chapter 9-3.
- C. Be anchored to the ground in accordance with manufacturers specifications, or as prescribed by BNSI/NFPA 5018 standards.
- D. Have siding material of a type customarily used on site-constructed residences.
- E. Have roofing material of a type customarily used on site-constructed residences.
- F. The age of the manufactured home may not exceed ten (10) years from the date of manufacture.
- G. Be placed onto a support system in accordance with approved installation standards, as specified in Chapter 9-3.

13-2-3

In order to be allowed with City limits, Type III manufactured homes shall meet or exceed the following requirements:

- A. Have more than 700 square feet of occupied space in a single, double, expand or multi-section unit.
- B. Utilize a permanent perimeter enclosure in accordance with approved installation standards, as specified in Chapter 9-3.
- C. Be anchored to the ground in accordance with manufacturer's specifications or as prescribed by ANSI/NFPA 501A standards.
- D. The age of the manufactured home may not exceed ten (10) years from the date of manufacture.

### **Chapter 13-3: Installation Standards.**

- 13-3-1      Permanent Perimeter Enclosures. Permanent Perimeter Enclosures will be required of all types of manufactured homes (Type I, II, III). Those manufactured homes designated in this chapter as requiring 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.
- 13-3-2      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.
- 13-3-3      Support Systems.
- A. All HUD-code manufactured homes of the Type I classification shall be installed with load bearing foundations in conformance with the manufacturer's installation specifications.
- B. Type II and III 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 system regulations in ANSI/NFPA 501A 1977 installation standards.
- 13-3-4      Structural Alterations. Due to its integral design, the City Council must approve any structure alteration or modification of a manufactured or mobile home after it is placed on the site.
- 13-3-5      Parking of Trailer Houses. Wherever in the City limits such trailer is parked, the person owning the property on which said trailer is parked shall be held responsible for the observation of City Health Regulations. Any violation of the above ordinance shall be punishable by a fine set by the City Council and on file with the Finance Officer.
- 13-3-6      Utilities. Every mobile home must be hooked up to City water, sewer and electrical services unless a waiver of this requirement is obtained from the City Council.

### **Chapter 13-4: Moving a Mobile Home.**

- 13-4-1      Time Period. If a mobile home is moved from its current lot within City limits, the owner has 24 hours to place another mobile home on said lot. If 24 hours elapses without the placement of a new mobile home, then the lot will be deemed not viable for a mobile home.
- 13-4-2      Permit Required. No mobile home may be moved into the City of White Lake or moved within the City until a building permit has been obtained from the City

Finance Officer. The mobile home must meet all building, fire, safety, electrical and plumbing codes in existence at the time of its manufacture.

13-4-3

Application for Permit. The owner shall apply for a building permit from the Municipal Finance Officer. The owner must submit detailed plans for each mobile home. Plans must include intentions for use, drawing of proposed placement, description of the materials and methods, description of proposed tie-down materials and methods, description of plans for wheels, tires and hitches, drawing of utility hookups, actual exterior dimensions, proof of date of manufacture, and pictures of exterior and interior to the satisfaction of the members of the Council building committee.

## TITLE 14: TAXATION

### Chapter 14-1: Municipal Sales and Service Tax and Use Tax

#### Chapter 14-1: Municipal Sales and Service Tax and Use Tax

- 14-1-1        Purpose. The purpose of this Chapter is to provide additional needed revenue for the City by imposing a municipal retail sales and use tax pursuant to the powers granted to the municipality by the State of South Dakota, by SDCL 10-52 entitled Uniform Municipal Non-Ad Valorem Tax Law, and acts amendatory thereto.
- 14-1-2        Effective Date. From and after January 1, 2006 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 City of White Lake, Aurora County, South Dakota, who are subject to the South Dakota Retail Occupational Sales and Service Tax, SDCL 10-45 and acts amendatory thereto.
- 14-1-3        Use Tax. In addition, there is hereby imposed an excise tax on the privilege of use, storage and consumption within the jurisdiction of the City of White Lake of tangible personal property or services purchased from and after January 1, 2006, 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 acts amendatory thereto.
- 14-1-4        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 of the State of South Dakota shall lawfully prescribe.
- 14-1-5        Interpretation. It is declared to be the intention of this Chapter 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 hereto, and that this shall be considered a similar tax except for the rate thereof to that tax.
- 14-1-6        Penalty. Any person failing or refusing to make reports on payments by this Chapter 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 five hundred dollars (\$500.00) or imprisoned for thirty (30) days or both such fine and imprisonment or any such punishment as allowed by SDCL. 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.

14-1-7

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

## TITLE 15: BUILDING PERMIT

### Chapter 15-1: Building Permits Required

### Chapter 15-2: Penalty

### Chapter 15-3: Boundaries, Setback Distance

- 15-1-1      Building Permits Required. No exterior wall, structure, building or part of a building shall be constructed, repaired or added to, and no building shall hereafter be enlarged or attached to such building, the value of which shall exceed one thousand dollars (\$1000.00) until a plan or proposed work statement of the material to be used, the proposed site of such structure and the name of the owner of the property to be improved is submitted to the City Finance officer, by the contractor or owner. If the proposed construction involves any enlargement of an existing building or the construction of a new building or moving of an old building, a plot plan showing the location of the buildings on the lot line shall be provided and a building permit shall be required. If the City engineer or building inspector is satisfied that the said proposed improvement complies with the law and City ordinances, he may authorize the issuing of a permit for such work, construction or improvement by the City finance officer.
- 15-2-1      Penalty. No owner or contractor or builder shall attempt to proceed with any work or improvement of any kind for which a permit is herein required without first having obtained a permit therefore. Failure to obtain a permit shall result in a penalty to be determined by the City council, which shall not exceed twenty-five dollars (\$25.00) per day (penalty begins on day work is commenced until the date in which a permit is approved).
- 15-3-1      Property Boundaries-Setback Distance to Lot Lines. Placement of any structure on lot, with the exception of a fence, must have a 20 foot front lot line set back, 3 foot back lot line set back and 8 foot set back from the roof line on each side. A fence, or any part of, cannot be placed on the lot line unless it is jointly owned by the land owners. A minimum set back of 6 inches is required.

## TITLE 16: TRUCK ROUTES

### Chapter 16-1: Truck routes

### Chapter 16-2: Exceptions

### Chapter 16-3: Penalty

16-1-1        Purpose. The purpose of this ordinance is to prevent damage to the streets in the City of White Lake, by establishing designated truck routes.

16-1-2        Definitions. The following words, terms and phrases, when used in this ordinance shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

(1) When used in this ordinance the word “truck” shall be defined as:

All vehicles whose gross weight is more than 20,000 (twenty thousand pounds);

(2) When used in this ordinance the word “owner” shall be defined as:

A person who holds the legal title to a motor vehicle or if such vehicle or trailer is the subject of an agreement for the conditional sale or lease thereof with the right of purchases upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or if a mortgagor of such motor vehicle or trailer is entitled to possession, then such conditional vendee, lessee or mortgagor shall be deemed the owner.

(3) When used in this ordinance “truck route: shall be defined as:

Any street or highway designated as truck routes by the City of White Lake.

(4) When used in this ordinance “street” shall be defined as:

All streets within the city which are not designated as truck routes.

16-1-3        Operation of Trucks. Use of designated truck routes. Unless otherwise permitted by this Ordinance, a truck may not operate on a city street or highway other than a designated truck route.

16-1-4        Owner’s Responsibility. In addition to the driver, the owner of any truck being operated with such owner’s permission and consent is liable for any violation of this ordinance.

16-1-5        Truck Route. The following street and highways within the City of White Lake are designated as truck routes.

<u>STREET</u>	<u>FROM</u>	<u>TO</u>
Main Street	Lake Street	Highway 16
Division Street	Ellis	Cemetery Rd.
Railroad Street	Main Street	Around the horseshoe back to Main St.

16-2-1

Exception to use of Truck Routes.

(1) Light delivery trucks or garbage trucks. This shall not apply to light delivery trucks delivering goods from place to place or to garbage trucks in the collection of refuse, which requires a stop or parking of, but a few minutes to receive or deliver merchandise.

(2) Emergency Vehicles. The operation of emergency vehicles, including but not limited to law enforcement, ambulances, fire department, and tow trucks, may operate upon any street or highway in the city. Such emergency vehicles may include utility vehicles engaged in the performance of emergency duties.

(3) Street repair or construction. Use of the city streets for the operation of trucks owned or operated by the City of White Lake, State of South Dakota, Aurora County, public utilities, any contractor or material men, while engaged in the repair, maintenance or construction of the city street, city street improvement or city owned or city contracted for utilities or any other authorized city activity is permitted.

(4) State Regulation. Trucks whose weight is in compliance with SDCL 32-22-16 may operate on truck routes within the city.

16-3-1

Penalties. A violation of this ordinance is a Class 2 Misdemeanor punishable by a fine of not more than \$100.00 (one hundred dollars).



# **TITLE 17: REPEALING CLAUSE AND SCOPE OF REVISION, PENALTIES, AND GENERAL PROVISION**

## **Chapter 17-1: Repealing Clause and Scope of Revision**

### **Chapter 17-1: Repealing Clause and Scope of Revision, Penalties, and General Provisions.**

- 17-1-1        Conflicting Ordinances Repealed. All ordinances and parts of ordinances in conflict with the provisions of this ordinance or relating to the subject matter of this ordinance and not reenacted as part of this ordinance, except as stated in this Title, are hereby repealed, provided, however, that nothing herein shall be construed as repealing any special ordinances, appropriation ordinances, levying ordinances for issuance of bonds, other special ordinances of like character, or those ordinances requiring special method of enactment.
- 17-1-2        Penalties, General. 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 shall be punishable as a Class 2 Misdemeanor under South Dakota statutes and shall be subject to the maximum fines and imprisonment provided for Class 2 misdemeanor violations. (SDCL 22-6-2(2))
- 17-1-3        Unconstitutionality. Should any section, paragraph, sentence, clause, or phrase of this ordinance be declared unconstitutional or invalid for any reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.
- 17-1-4        Publication and Effect. This ordinance shall take effect upon its adoption and publication of the notice of such adoption as provided by SDCL 9-19-17.

**TITLE 18:**  
**AN ORDINANCE WHICH PROHIBITS ALL CANNABIS ESTABLISHMENTS EXCEPT CANNABIS DISPENSARIES.**

- Chapter 18-1: Purpose and Definitions**
- Chapter 18-2: Prohibited Uses**
- Chapter 18-3: Cannabis Dispensary Regulations**
- Chapter 18-4: Documentation of State Licensure**
- Chapter 18-5: License Application**
- Chapter 18-6: Expiration of License and Renewal**
- Chapter 18-7: Suspension**
- Chapter 18-8: Revocation**
- Chapter 18-9: Suspension and Revocation Process**
- Chapter 18-10: Appeal**
- Chapter 18-11: Licenses not Transferrable**
- Chapter 18-12: Hours of Operation**
- Chapter 18-13: Liability for Violations & Penalties**

**Chapter 18-1: Purpose and Definitions.**

18-1-1        The City Council of the City of White Lake enacts the following zoning/licensing regulations in order to ensure that cannabis establishments within the municipal boundaries of the City operate in a manner which complies with state laws and regulations, protects the health, safety, and welfare of the general public, prevents potential conflicts and issues arising from ownership and employees, recognizes certain safety and security considerations, and minimizes risk of unauthorized use or access of cannabis by the general public. All references to Department are known as South Dakota Department of Health.

18-1-2        **DEFINITIONS:** Unless an alternative definition is explicitly stated in this section, this chapter utilizes the definitions for cannabis-related terms which are defined by SDCL 34-20G-1.

**Cannabis (or Marijuana):** all parts of any plant of the genus cannabis, whether growing or not, in its natural and unaltered state, except for drying or curing and crushing or crumbling. The term includes an altered state of marijuana absorbed into the human body. The term does not include fiber produced from the mature stalks of such plant, or oil or cake made from the seeds of such plant. The term does not include the plant *Cannabis sativa* L. (hemp) and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent on a dry weight basis.

**Cannabis Cultivation Facility:** in addition to the definition in SDCL 34-20G-1, this term is further defined as a legally licensed entity that acquires, possesses, cultivates, delivers, transfers, transports, supplies, or sells cannabis and related supplies to a cannabis establishment.

**Cannabis Dispensary:** in addition to the definition in SDCL 34-20G-1, this term is further defined as a legally licensed entity that acquires, possesses, stores, delivers, transfers, transports, sells, supplies, or dispenses cannabis, cannabis products, paraphernalia, or related supplies and educational materials.

**Cannabis Establishment:** a cannabis cultivation facility, a cannabis testing facility, a cannabis product manufacturing facility, or a cannabis dispensary.

**Cannabis Product Manufacturing Facility:** in addition to the definition in SDCL 34-20G-1, this term is further defined as a legally licensed entity that acquires, possesses, manufactures, delivers, transfers, transports, supplies, or sells cannabis products to a cannabis dispensary.

**Cannabis Products:** any concentrated cannabis, cannabis extracts, and products that are infused with cannabis or an extract thereof and are intended for use or consumption by humans. The term includes edible cannabis products, beverages, topical products, ointments, oils, and tinctures.

**Cannabis Testing Facility:** in addition to the definition in SDCL 34-20G-1, this term is further defined as a legally licensed entity legally authorized to analyze the safety and potency of cannabis.

## **Chapter 18-2: Prohibited Uses**

18-2-1 All uses and structures not specifically listed as a permitted use, special permitted use, or as a conditional use in a particular zoning district shall be prohibited in said district.

## **Chapter 18-3: Cannabis Dispensary Regulations.**

18-3-1 Maximum Number of Cannabis Dispensaries. 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 potential 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. The primary control or regulation is for the purpose of preventing a concentration of these uses in any one area. The City of White Lake shall allow up to 1 (one) cannabis dispensaries provided the time, place, and manner of said dispensaries comply with this ordinance.

18-3-2 Required Separation Distances.  
a. A cannabis dispensary shall be located not less than one thousand feet from a public or private school existing before the date of the cannabis dispensary application;

b. A cannabis dispensary shall be located not less than one thousand feet from churches, residences, public parks, libraries, and daycare facilities existing before the date of the cannabis dispensary application;

c. Exemption from separation requirements. Any separation distance requirement, other than the State requirement from schools (1,000 feet), may be waived, provided: The applicant provides documentation waiving the setback requirement from the title holder of the land benefiting from the separation.

d. Prescribed separation/setback distances from certain existing uses are to be measured from the lot line of the property where the dispensary is proposed

18-3-3 Other Locational Requirements.

a. Permanent or temporary dispensaries are prohibited and not eligible for a home occupation use.

b. It shall be unlawful to operate a dispensary in a building which contains a residence or a mixed-use building with commercial and residential uses.

c. Controlled Access - No cannabis establishment shall share premises with or permit access directly from another cannabis establishment, business that sells alcohol or tobacco, or, if allowed by law, other cannabis establishment.

18-3-4 Hours of operation. Cannabis dispensaries are allowed to be open between the hours of 9:00 a.m. and 8:00 p.m. on Monday through Saturday. The dispensary shall be closed on Sunday and all Federal and State recognized holidays. (The dispensary does have the right set the hours of operation if different from above, with the approval of the White Lake City Council.)

18-3-5 Documentation of State Licensure. No cannabis dispensary shall acquire, possess, store, deliver transfer, transport, supply or dispense cannabis, cannabis products, paraphernalia without providing documentation of licensure from the State of South Dakota.

18-3-6 The Finance officer is authorized to issue permits (building/use) for cannabis dispensaries after the approval of the White Lake City Council subject to following:

- (1). Submission of a site plan containing the following:
  - a. Any information required for applicable building permit
  - b. Ingress and egress plan
  - c. Parking plan
  - d. Lighting plan (including security lighting)
  - e. Screening/security fencing plan,
  - f. Refuse plan;
  - g. Hours of Operation;
  - h. Any other information as lawfully may be required to determine compliance with this ordinance
- (2). Documentation of ability to meet setback/separation requirements.
- (3). All Cannabis Establishments are required to be constructed in conformance with the 2021 Edition of the International Building Code and International Fire Code.

#### **Chapter 18-4: Documentation of State Licensure LICENSE REQUIRED**

- 18-4-1 No cannabis establishment may be located or operate in the city without the appropriate valid and current cannabis establishment license issued by the city pursuant to this article. A violation of this provision is subject to the general penalty provision in Chapter XX.16. Each day of the violation constitutes a separate offense.
- 18-4-2 No cannabis establishment may be located or operate in the city without the appropriate valid and current cannabis establishment registration certificate issued by the Department pursuant to rules promulgated under SDCL 34-20G. A violation of this provision is subject to the general penalty provision in XX.16. Each day of the violation constitutes a separate offense.

#### **Chapter 18-5: LICENSE APPLICATION**

- 18-5-1 An application for a cannabis establishment license must be made on a form provided by the city. No other application form will be considered.
- 18-5-2 The applicant must submit the following:
1. Application fee of \$5,000.00. The City will reimburse \$2,500.00 for applicants who fail to obtain a registration certificate from the South Dakota Department of Health.
  2. An application that will include, but is not limited to, the following:
  3. The legal name of the prospective cannabis establishment;
  4. The physical address of the prospective cannabis establishment that meets the location requirements pursuant SDCL 34-20G and the administrative rules promulgated thereunder.
  5. The name, address, and birth date of each principal officer, owner, and board member of the proposed cannabis establishment.
  6. A sworn statement that no principal officer, owner, or board member has been convicted of a violent felony offense in the previous ten (10) years in any jurisdiction.
  7. Any additional information requested by the city.
- 18-5-3 Issuance of License. The city will issue a license unless:
1. The applicant has made a false statement on the application or submits false records or documentation; or

2. Any owners, principal officer, or board member of the applicant is under the age of twenty-one (21) years; or
3. Any owner, principal officer, or board member of the applicant has been convicted of a violent felony offense in the previous ten (10) years in any jurisdiction;
4. The proposed location does not meet the applicable zoning requirements;
5. The proposed location does not meet all location requirements under SDCL 34-20G and the administrative rules promulgated thereunder;
6. The license is to be used for a business prohibited by state or local law, statute, rule, ordinance, or regulation; or
7. Any owner, principal officer, or board member of the applicant has had a cannabis establishment license revoked by the city or a registration certificate revoked by the state; or
8. An applicant, or an owner, principal officer, or board member thereof, is overdue in payment to the city of taxes, fees, fines, or penalties assessed against or imposed upon the applicant in relation to any cannabis establishment; or
9. The applicant will not be operating the business for which the license would be issued.
10. In the case of an application for a cannabis dispensary license, the city will reject the application if the limit on the number of cannabis dispensaries has been reached.
11. The license must be posted in a conspicuous place at or near the entrance to the cannabis establishment so that it may be easily read at any time.

18-5-4 CITY NEUTRALITY AS TO APPLICANTS. Upon request from the Department as to the City's preference of applicants, the City will neither support nor oppose any registration certificate application under consideration by the Department. Likewise, if inquiry is made by the Department, the City will abstain from endorsing any application as beneficial to the community.

**Chapter 18-6: Expiration of License and Renewal.**

18-6-1 Each license expires one year from the date of issuance and may be renewed only by making application as provided in Section 21.25. Application for renewal must be submitted at least thirty (30) days before the expiration date. The license holder must continue to meet the license requirements to be eligible for a renewal.

- 18-6-2 The renewal fee is \$5,000.00. The City will reimburse \$2,500.00 for applicants who fail to obtain a renewal of their registration certificate from the Department.
- 18-6-3 Failure to renew a license in accordance with this section may result in additional fees. Upon expiration of the license, the city may order closure of the cannabis establishment.
- 18-6-4 If a license holder has not operated an establishment for which it holds a license in the preceding twelve (12) months, the license will not be renewed.

### **Chapter 18-7: Suspension.**

- 18-7-1 A license may be suspended if the license holder or an employee or agent of the license holder:
- a. Violates or is otherwise not in compliance with any section of this article.
  - b. Consumes or smokes or allows any person to consume or smoke cannabis on the premises of the cannabis establishment.
  - c. Knowingly dispenses or provides cannabis or cannabis products to an individual or business to whom it is unlawful to provide cannabis or cannabis products.
  - d. A license may be suspended if the license holder has its department-issued registration certificate suspended, revoked, or not renewed by the Department or if the registration certificate is expired.
  - e. A license may be suspended if the license holder creates or allows to be created a public nuisance at the cannabis establishment.

### **Chapter 18-8: Revocation**

- 18-8-1 A license may be revoked if the license is suspended under Section 18-7 and the cause for the suspension is not remedied.
- (a). A license may be revoked if the license is subject to suspension under Section 18-7 because of a violation outlined in that section and the license has been previously suspended in the preceding 24 months.
  - (b). A license is subject to revocation if a license holder or employee of a license holder:
  - (c). Gave false or misleading information in the material submitted during the application process;
  - (d). Knowingly allowed possession, use, or sale of non-cannabis-controlled substances on the premises;
  - (e). Operated the cannabis establishment or the business of the cannabis establishment for which a license is required under this article while the license was suspended;

(f). Repeated violations of Section 18-7;

- 18-8-2 Operated a function of a cannabis establishment for which the license holder was not licensed (e.g., a licensed cannabis cultivation facility conducting cannabis testing functions without a cannabis testing establishment license);
- 18-8-3 A license holder, or an owner, principal officer, or board member thereof, is delinquent in payment to the city, county, or state for any taxes or fees related to the cannabis establishment;
- 18-8-4 A license holder, or an owner, principal officers, or board member thereof, has been convicted of, or continues to employ an employee who has been convicted of, a disqualifying felony offense as defined by SDCL 34-20G; or
- 18-8-5 The license holder has its South Dakota Department-issued registration certificate suspended, revoked, or not renewed or the registration certificate is expired.
- 18-8-6 The license holder allows a public nuisance to continue after notice from the City.

### **Chapter 18-9: Suspension and Revocation Process**

- 18-9-1 The license holder will receive a notice of intent to suspend or notice of intent to revoke informing the license holder of the violation and the city's intention to suspend or revoke the license. The notice will be hand delivered to the license holder or an employee or agent of the license holder or sent by certified mail, return receipt requested to the physical address of the cannabis establishment.
- 18-9-2 If the license holder disputes the suspension or revocation, the license holder has ten (10) days from the postmark date on the notice or the date the notice was hand delivered to request a hearing before a hearing panel, which will consist of the Mayor, Finance Officer, and White Lake City Council members.
- 18-9-3 A suspension will be for thirty (30) days and begins ten (10) days after the postmark date on the notice or the date the notice is hand delivered unless the license holder exercises its rights to process and appeal, in which case the suspension takes effect upon the final determination of suspension.
- 18-9-4 A revocation will be for one (1) year and begins ten (10) days after the postmark date on the notice or the date the notice is hand delivered unless the license holder appeals the revocation, in which case the revocation takes effect upon the final determination of revocation.
- 18-9-5 The license holder who has had the license revoked may not be issued any cannabis establishment license for one year from the date the revocation became effective.



### **Chapter 18-10: Appeal**

18-10-1 An applicant or license holder who has been denied a license or renewal of a license or who has had a license suspended or revoked under this article may appeal to the City Council by submitting a written appeal within ten (10) days of the postmark on the notice of denial, nonrenewal, suspension, or revocation. The written appeal must be submitted to: White Lake City Hall; PO BOX 37; White Lake, South Dakota, 57383. The appeal will be considered by the City Council at a regularly scheduled meeting within one month of the receipt of the appeal.

### **Chapter 18-11: Licenses not Transferrable**

18-11-1 No cannabis establishment license holder may transfer the license to any other person or entity either with or without consideration, nor may a license holder operate a cannabis establishment at any place other than the address designated in the application.

### **Chapter 18-12: Hours of Operation**

18-12-1 No cannabis dispensary may operate between the hours of 8:01 p.m. and 8:59 a.m. any day of the week.

### **Chapter 18-13: Liability for Violations & Penalties**

18-13-1 Notwithstanding anything to the contrary, for the purposes of this article, an act by an employee or agent of a cannabis establishment that constitutes grounds for suspension or revocation will be imputed to the cannabis establishment license holder for purposes of finding a violation of this article, or for purposes of license denial, suspension, or revocation, only if an officer, director or general partner or a person who managed, supervised or controlled the operation of the cannabis establishment, knowingly allowed such act to occur on the premises.

18-13-2 Penalties. Any person who operates or causes to be operated a cannabis establishment without a valid license or in violation of this article is subject to a suit for injunction as well as prosecution for ordinance violations. Such violations are punishable by a maximum fine of five hundred dollars (\$500.00). Each day a cannabis establishment so operates is a separate offense or violation.

18-13-3 Severability. The provisions of this ordinance are severable. If any provision of this ordinance or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application.