

WEBSTER, SOUTH DAKOTA

CODE OF ORDINANCES

Local legislation current through Ord. 525, passed 12-28-2020

Published by:

American Legal Publishing Corporation

525 Vine Street, Suite 310

Cincinnati, Ohio 45202

Tel: (800) 445-5588

Internet: www.amlegal.com

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Council member	Jim Grimes
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Council member	Derek Sinner

TITLE I: GENERAL PROVISIONS

Chapter

10. GENERAL PROVISIONS

CHAPTER 10: GENERAL PROVISIONS

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§ 10.01 TITLE OF CODE.

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

§ 10.02 RULES OF INTERPRETATION.

(A) *Generally.* Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition, and application shall govern the interpretation of this code as those governing the interpretation of state law.

(B) *Specific rules of interpretation.* The construction of all ordinances shall be by the following rules, unless that construction is plainly repugnant to the intent of the legislative body or of the context of the same ordinance:

(1) *Acts by assistants.* When a statute, code provisions, or ordinance requires an act to be done which, by law, an agent or deputy as well may do as the principal, that requisition shall be satisfied by the performance of the act by an authorized agent or deputy.

(2) *Gender; singular and plural; tenses.* Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural, and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

(3) *General term.* A general term following specific enumeration of terms is not to be limited to the class enumerated unless expressly so limited. General terms descriptive of an officer, act, proceeding, or thing shall have reference to a municipality concerned or affected.

Statutory reference:

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

§ 10.03 CAPTIONS.

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

§ 10.04 DEFINITIONS.

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

ARSD. Administrative Rules of South Dakota.

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

COUNTY. Day County, South Dakota.

(SDCL 9-1-1)

ELECTOR(S) or QUALIFIED ELECTOR(S). Voter(s).

(SDCL 9-1-1)

GOVERNING BODY. The City Council of the City of Webster.

(SDCL 9-1-1)

LOT. Includes **PARCEL** or **TRACT OF LAND**.

(SDCL 9-1-1)

MONTH. A calendar month.

MUNICIPALITY or MUNICIPAL CORPORATION. The City of Webster.

(SDCL 9-1-1)

ORDINANCE. A permanent legislative act within the limits of its powers of the governing body of a municipality.

(SDCL 9-19-1)

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

(SDCL 9-1-1)

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

(SDCL 9-1-1)

RESOLUTION. Any determination that, decision, or direction of the governing body of a municipality of a temporary or special character for the purpose of initiating effecting, or carrying out its administrative duties and functions.

(SDCL 9-19-1)

SDCL. South Dakota Codified Laws.

STREET.STREET includes **AVENUE**.

(SDCL 9-1-1)

YEAR. A calendar year.

§ 10.05 SEVERABILITY.

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

§ 10.06 REFERENCE TO OTHER SECTIONS.

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

§ 10.07 REFERENCES TO OFFICES.

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

§ 10.08 ERRORS AND OMISSIONS.

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

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

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

§ 10.10 ORDINANCES REPEALED.

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

§ 10.11 ORDINANCES UNAFFECTED.

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

§ 10.12 REPEAL OR MODIFICATION OF AN ORDINANCE.

(A) No suit, proceedings, right, fine, forfeiture, or penalty instituted, created, given, secured, or accrued under any ordinance previous to its repeal shall in any way be affected, released, or discharged, but may be prosecuted, enjoined, and recovered as fully as if the ordinance had continued in force unless it is otherwise expressly provided.

(B) When any ordinance repealing a former ordinance, clause, or provision shall be itself repealed, the repeal shall not be

construed to revive the former ordinance, clause, or provision, unless it is expressly provided.

§ 10.13 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.

(A) If the legislative body shall desire to amend any existing chapter or section of this code, the chapter or section shall be specifically repealed and a new chapter or section, containing the desired amendment, substituted in its place.

(B) Any ordinance which is proposed to add to the existing code a new chapter or section shall indicate, with reference to the arrangement of this code, the proper number of the chapter or section. In addition to this indication as may appear in the text of the proposed ordinance, a caption or title shall be shown in concise form above the ordinance.

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

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

§ 10.99 GENERAL PENALTY.

Except in cases where a different or additional penalty is imposed by this code or by some existing provision of law, every violation of any of the provisions of this code shall be punishable by a fine not exceeding \$200 or by imprisonment for a period not exceeding 30 days, or by both such fine and imprisonment.

(Prior Code, § 13-1-1)

Cross-reference:

Fee schedule, see § 35.35

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APPOINTIVE OFFICERS

§ 30.001 APPOINTIVE OFFICER; METHOD OF APPOINTMENT.

All appointive officers shall be appointed by the Mayor with the approval of the City Council at the first regular meeting in May, and shall hold office until their successor shall be appointed and qualified.

(Prior Code, § 1-1-1)

§ 30.002 APPOINTIVE OFFICERS; SALARIES AND BONDS.

(A) At the first regular meeting in May of each year, there shall be appointed by the governing body a Library Board, Housing Authority Commission, and Planning Commission. All such appointments shall be made by the Mayor with the approval of Council.

(B) All others shall be considered paid employees, or in the case of the City Attorney or other professionals, shall be independent contractors appointed by a majority of the governing body.

(C) All salaries for employees of the city fixed by ordinance or by resolution of the governing body shall be paid semi-monthly, or at such time as determined by the governing body by resolution. All salaries are to be published once a year in the local newspaper.

(D) All salaries and bonds for appointive officers and employees of the city fixed by ordinance or by resolution of the governing body shall be adjusted as deemed necessary by resolution of the governing body of the city.

(Prior Code, § 1-1-2)

§ 30.003 COMPENSATION.

The compensation of city employees not named above shall be fixed by motion or resolution at any time regardless of the time when any city employee may have been appointed.

(Prior Code, § 1-1-3)

§ 30.004 PERSONNEL POLICIES.

The vacations and sick leave policy, in effect, is on file in the office of the City Finance Officer.

(Prior Code, § 1-1-4)

MAYOR AND CITY COUNCIL

§ 30.015 REGULAR MEETINGS.

The regular monthly meetings of the City Council shall be held at the Municipal Building in said city on the first Monday of each month, except when Monday is a legal holiday, and in that case the meeting shall be held on a specified date.

(Prior Code, § 1-2-1)

§ 30.016 SPECIAL MEETINGS.

(A) Special meetings of the City Council may be held at any time on call of the Mayor, or in case of absence or inability to act, then by the President of the Council; or if the Mayor and President of the Council refuse to act, then by three of the Council members.

(B) It shall be the duty of the Finance Officer to contact the Council members before the time specified for such meetings, and this may be done by telephone.

(Prior Code, § 1-2-2)

§ 30.017 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.

(Prior Code, § 1-2-3)

§ 30.018 CITY COUNCIL.

The City Council shall consist of a Mayor elected at large and two Council members elected from and by the electors of each ward of the city. The Mayor shall serve a term of two years. The Council members shall serve a term of two years. The Mayor and City Council shall have such authority and perform such duties as are prescribed by the statutes of the state and the city ordinances.

(Prior Code, § 1-2-4)

§ 30.019 CITY ATTORNEY.

(A) The City Attorney shall attend Council meetings and such other meetings as requested by the Mayor, draw ordinances and other documents which the Mayor or the City Council shall direct. The City Attorney shall offer professional legal advice on matters brought before the City Council.

(B) From time to time, the City Attorney may be called upon to render extraordinary services to the city. This shall include, but not be limited to, representation of the city in courts or administrative hearings, providing legal services concerning major improvements or construction being done by the city, and any other task which takes an amount of time beyond the scope of his or her normal duties.

(Prior Code, § 1-2-5)

§ 30.020 COMMITTEES.

The Mayor may appoint such committees of the members of the City Council as he or she deems desirable to accomplish an efficient division of the work and duties to be performed by the Council.

(Prior Code, § 1-2-6)

§ 30.021 BOARDS AND COMMISSIONS.

The City Council shall have the authority to create such boards and commissions as are allowed under the statutes of the state as it may consider necessary and desirable and shall make such bylaws, rules, and regulations as are necessary for the orderly transaction and conduct of its business, of which a record shall be placed on file in the office of the City Finance Officer.

(Prior Code, § 1-2-7)

§ 30.022 SALARIES OF MAYOR, COUNCIL, AND THE LIKE.

The salaries of the Mayor and City Council members shall be fixed by resolution and said amounts shall be placed on file in the office of the City Finance Officer. Compensation for board or commission members shall be fixed by ordinance or resolution, which shall be placed on file in the office of the City Finance Officer.

(Prior Code, § 1-2-8)

§ 30.023 RESTRICTIONS ON LOBBYING.

(A) No federal appropriated funds will be paid by, or on behalf of, the city to any person for influencing or attempting to influence an officer or employee of any federal agency, member of Congress, an officer or employee of Congress, or an

employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

(B) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with any federal contract, grant, loan, or cooperative agreement, the city shall complete and submit Standard Form - LLL, "Disclosure Form To Report Lobbying", in accordance with its instructions.

(Prior Code, § 1-2-9)

ORGANIZATION; ALDERMANIC FORM

§ 30.035 MAYOR; QUALIFICATIONS, TERM, AND POWERS.

(A) *Executive.* The chief executive officer of the city under the aldermanic form shall be a Mayor.

(SDCL § 9-8-1)

(B) *Qualifications.* No person is eligible to be nominated, elected, or appointed as a Mayor unless such person is a citizen of the United States, a voter of and resident of the city, and, if a Council member, a voter of and resident of the ward for which the person is to hold office.

(SDCL § 9-8-1.1)

(C) *Term.* The Mayor shall hold office for a term of not less than two nor more than five years as determined by ordinance. A person may hold office for more than one term.

(SDCL § 9-8-1)

(D) *Powers.*

(1) The Mayor shall preside at all meetings of the council but shall have no vote except in case of a tie.

(2) He or she shall perform such other duties as may be prescribed by the laws and ordinances, and take care that such laws and ordinances are faithfully executed.

(3) He or she shall annually and or as may be necessary, give the Council information relative to the affairs of the city, and shall recommend for Council's consideration such measures as he or she may deem expedient.

(4) He or she shall have the power to sign or veto any ordinance or resolution passed by the City Council, and the power to veto any part or item of an ordinance or resolution appropriating money. Pursuant to SDCL § 9-19-10, the veto, with written objections must be filed with the Finance Officer within ten days after final passage.

(SDCL § 9-8-3)

§ 30.036 VACANCY IN OFFICE OF MAYOR; TEMPORARY ABSENCE OR DISABILITY.

If there is a vacancy from any cause in the office of the Mayor, the vacancy shall be filled by appointment by a majority vote of the members-elect of the Council members as soon as practicable after the vacancy occurs, to serve until the office is filled by election for the unexpired term at the next annual municipal election or by special election as provided in SDCL § 9-13-14.2. Until the vacancy is filled or during the time of temporary absence or disability of the Mayor, the powers and duties of Mayor shall be executed by the President of the Council as provided in § 30.038.

(SDCL § 9-8-2)

§ 30.037 CITY COUNCIL; MEMBERSHIP; TERMS OF OFFICE.

(A) *Membership.* The City Council shall consist of the Mayor elected at large and two Council members elected from and by the voters of each ward of the municipality.

(B) *Term.* The term of office shall be for two years, unless a municipality adopts an ordinance establishing the term of office to be three, four, or five years. The Mayor and Council members shall hold office until successors are elected and qualified. At the first election of Council members, the Council shall stagger the initial terms of the Council members in each ward to provide that the two Council members are not up for reelection in the same year. A person may hold office for more than one term. A vacancy on the City Council shall be filled as provided in SDCL §§ 9-13-14.1 or 9-13-14.2

(SDCL § 9-8-4)

(C) *Eligibility.* No person is eligible to be nominated, elected, or appointed as a Mayor or as an Council members unless such person is a citizen of the United States, a voter of and resident of the city, and, if a Council member, a voter of and resident of the ward for which such person is to hold office.

§ 30.038 PRESIDENT AND VICE PRESIDENT; ELECTION; POWERS.

(A) At the first regular meeting after the annual election in each year and after the qualification of the newly elected

Council members, the Council shall elect from among its own members a President and Vice President, who shall hold their respective offices for the municipal year.

(B) The President of the Council in the absence of the Mayor shall be the presiding officer of the council, and during the absence of the Mayor from the first or second class municipality or his or her temporary disability shall be Acting Mayor and possess all the powers of the Mayor. In the absence or disability of the Mayor and President of the Council the Vice President shall perform the duties of the Mayor and President of the Council.

(C) However, the President of the Council or Vice President of the Council acting as the Mayor shall only vote as a Council member. No Council member acting as Mayor may vote as the Mayor to break a tie vote.

(SDCL § 9-8-7)

§ 30.039 POWER OF COUNCIL TO JUDGE MEMBERS AND GOVERN PROCEEDINGS; BRIBERY.

(A) The Council shall be the judge of the election and qualification of its own members. It shall determine its own rules of procedure, punish its members for disorderly conduct, and, with the concurrence of two-thirds of the Council members elected thereto, may expel a member.

(B) Any Council member who shall have been convicted of bribery shall thereby vacate his or her office. (SDCL § 9-8-5)

§ 30.040 MEETINGS; QUORUM; JOURNAL OF MEETINGS.

(A) *Meetings.* The Council shall hold its regular meetings on the first Monday of each month. It may prescribe by ordinance the manner in which special meetings may be called and may so change the day of its regular monthly meetings.

(B) *Quorum.* When a seat on Council is vacant due to removal, resignation, death, or by operation of law, the quorum consists of the majority of the remaining Council members who are qualified to serve as Council members by election or appointment pursuant to SDCL Chapter 9-13. The Council may compel the attendance of absentees under such penalties as may be prescribed by ordinance.

(C) *Journal of meetings.* The meetings of the Council are open to the public and it shall keep a journal of its proceedings.

(SDCL § 9-8-8)

§ 30.041 VOTES REQUIRED.

(A) A roll call vote shall be taken 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. All votes shall be entered in the minutes of its proceedings.

(B) The majority vote of the Council members shall be necessary to pass an ordinance or proposal which expends or appropriates money, and the Mayor may not break a tie on an ordinance or proposal to expend or appropriate money. The Mayor may break a tie on all other ordinances or proposals.

(C) A two-thirds vote of the Council members is required to sell any city property.

(SDCL § 9-8-10)

§ 30.042 RECONSIDERATION OR RESCISSION.

A vote of the Council may be reconsidered or rescinded at a regular or special meeting if a quorum is present and a majority vote to reconsider or rescind the action.

(SDCL §9-8-11)

ORDINANCES AND RESOLUTIONS

§ 30.060 STYLE OF ORDINANCES; SUBJECT.

(A) Ordinances must be in the following style:

(1) An Ordinance _____ (Insert Title);

(2) Be it ordained by (city or town) of _____ (insert name of the municipality). The substance of the ordinance follows.

(SDCL § 9-19-6)

(B) Ordinances can only embrace one subject which must be expressed in its title.

(SDCL § 9-19-5)

§ 30.061 READINGS, PASSAGE AND PUBLICATION.

(A) All ordinances shall be read twice by title with at least five days between each reading. The ordinances, if passed, shall be signed by the Mayor or Acting Mayor or president of the Board of Trustees, and filed with the Finance Officer and published once.

(SDCL § 9-19-7)

(B) (1) After being signed and filed, the ordinances must be published at least once in the official newspaper. The only exception to this is that an ordinance incorporating or adopting comprehensive regulations or a code promulgated, approved, and published by a recognized and established national organization prescribing building, electrical, plumbing, safety, fire, health, or milk regulations need not be published in newspaper but upon adoption of such an ordinance the auditor or clerk shall publish a notice of the fact of adoption once a week for two successive weeks in the official newspaper, and 20 days after the completed publication of such notice, unless the referendum shall have been invoked, such ordinance shall become effective.

(SDCL § 9-19-7)

(2) If any amendment presented and approved by the governing body at the second reading of an ordinance substantially alters the substance of the ordinance from the first reading, the proposed ordinance as amended may not be considered for final adoption until at least five days after a duly noticed public meeting of the governing body pursuant to SDCL Chapter 1-25.

(SDCL § 9-19-7.1)

(3) The vote on the second reading of all ordinances must be recorded and published.

(SDCL § 9-19-9)

(C) Amendments to a planning or zoning ordinance may be published without republishing the full ordinance in the section or subsection of the ordinance containing the change is published in its entirety. (SDCL § 11-4-8)

(D) Resolutions differ from ordinances in that any resolution may be passed after only one reading. The resolution must be recorded at length either separately or in the minutes of the meeting. The votes for and against the resolution must also be published.

(SDCL § 9-19-8)

§ 30.062 EFFECTIVE DATE OF ORDINANCES AND RESOLUTIONS.

Unless an ordinance or resolution is drawn to take effect immediately upon passage, all ordinances and resolutions become effective on the twentieth day after passage and publication, unless suspended by operation of a referendum.

(SDCL § 9-19-13)

§ 30.063 COMPILATION OF ORDINANCES.

(A) Municipalities can compile the ordinances of the municipality in book form provided that while compiling the ordinances they are not revised or amended. The Finance Officer shall furnish a free copy of the newly compiled book to the circuit clerk of court and the county law library of each county in which the municipality is situated.

(SDCL § 9-19-15)

(B) Every municipality also has the power to revise their ordinances once every five years.

(SDCL § 9-19-16)

(C) (1) Upon the adoption of an ordinance which revises the ordinances of the municipality by the governing body, the auditor or clerk shall publish a notice of the adoption of the revised ordinances once in the official newspaper. Twenty days after the completed publication of the notice, unless the referendum is invoked, the ordinance shall become effective without publication in a newspaper.

(2) The governing body may publish the revised ordinances in book form. The auditor or clerk shall furnish a free copy of the book or the revised ordinances to the circuit clerk of court and the county law library of each county in which the municipality is situated.

(SDCL §9-19-17)

(D) If a municipality posts the ordinance book or any part of the book on the municipality's official website, the municipality shall ensure the most current version of the ordinance book or any part of the book is posted.

(SDCL § 9-19-14.1)

§ 30.064 CONTINUATION IN FORCE OF ORDINANCES AFTER CHANGE IN FORM OF GOVERNMENT.

Any ordinance or resolution of this municipality shall continue in force and effect the same as though no change of government has occurred.

(SDCL § 9-11-10)

§ 30.065 VETOED ORDINANCE.

If the Mayor vetoes any ordinance, resolution, or other item pursuant to SDCL § 9-19-10 the Finance Officer shall present

the ordinance, resolution, or other item with the Mayor's written objection at the next meeting of the Council and it may be reconsidered. If the ordinance or resolution is passed by a two-thirds vote of the Council members, it shall be published and become effective notwithstanding the Mayor's disapproval.

(SDCL § 9-19-11)

CHAPTER 31: CITY ORGANIZATION

Section

Territory

31.01 Boundaries

31.02 Wards

31.03 Precincts

31.04 Annexation

TERRITORY

§ 31.01 BOUNDARIES.

The corporate limits of the city shall be declared to be such as have been legally established and amended by law and ordinance 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 section by reference and adopted as the official map showing the boundaries and limits of the city.

(Prior Code, § 2-1-1)

§ 31.02 WARDS.

The city is divided into three wards as follows.

(A) *First ward.* All of the city which is north of 9th Avenue West except west of 7th Street West, which will be north of 10th Avenue West, and all of the city which is north of 12th Avenue East from Main Street to 6th Street East, north of 10th Avenue East from 6th Street East to 7th Street East, and north of 9th Avenue East from 7th Street East to the city limits.

(B) *Second ward.* All of the city which is south of 12th Avenue East from Main Street to 6th Street East, south of 10th Avenue East from 6th Street East to 7th Street East, and south of 9th Avenue East from 7th Street East to the city limits.

(C) *Third ward.* All of the city which is south of 9th Avenue West, except west of 7th Street West which will be south of 10th Avenue West.

(Prior Code, § 2-2-1)

§ 31.03 PRECINCTS.

Each of the three said wards shall constitute a separate voting precinct and comprise the three election precincts of the county within said city now numbered first ward, second ward, and third ward; provided that the City Council may, for the purpose of any particular election, combine any two or more of such precincts according to law.

(Prior Code, § 2-3-1)

§ 31.04 ANNEXATION.

(A) At the time of such annexation, the owners petitioning for such annexation shall file written undertaking signed by sureties satisfactory to the City Council in such penal sum as it may require, but in no case in excess of the estimated cost of all necessary storm sewers, sanitary sewers, curbs, gutters, sidewalks, and of dust-proofing, which undertaking shall provide that all of said improvements shall be made as ordered by the City Council, otherwise the penal sum mentioned in the bond shall be forfeited to the city, or in lieu of furnishing such bond the owners, prior to the annexation may install all of said improvements, and the petitioners for annexation shall show that such improvements have been previously installed by petitioning for such annexation.

(B) All such sanitary sewers, storm sewers, curbs, gutters, and sidewalks shall be designed and constructed in accordance with the grades and specifications established by the City Engineer and approved by the Mayor and City Council. All engineering work necessary for the establishment of grade lines to comply with the grades and specifications of the city shall be done by the owner at the owner's expense, but shall be, prior to any construction, approved by the City Engineer.

(Prior Code, § 2-4-1)

CHAPTER 32: ADMINISTRATIVE CODE ENFORCEMENT

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- 32.13 Appeal to circuit court
- 32.14 Administrative citation penalties assessed
- 32.15 Failure to pay administrative citation penalties
- 32.16 Scope of enforcement
- 32.17 Fines
- 32.18 Remedies not exclusive

§ 32.01 STATEMENT OF PURPOSE AND INTENT.

(A) The city has determined that the enforcement of the city's code is an important public service and is vital to the protection of the public's health, safety, and welfare. The city has determined that there is a need for alternative methods of comprehensive code enforcement using both administrative and judicial remedies.

(B) The city has also determined that because safety issues may be regulated through an administrative enforcement process, penalties for violation should be enhanced.

(C) The Code Enforcement Officer shall be administered by and report to the Mayor and City Council. The Code Enforcement Officer shall be appointed by the Mayor and be an employee of the city. The appointment of the Code Enforcement Officer shall be approved by the City Council.

(Prior Code, § 6-16-1)

§ 32.02 DEFINITIONS.

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

ADMINISTRATIVE CODE ENFORCEMENT REMEDIES. Administrative citations and civil penalties as contained in this chapter.

CIVIL PENALTY. The administrative civil penalty assessed and all costs incurred by the city from the first discovery of the violations until compliance is achieved. It includes, but is not limited to, staff time and expense in inspecting the property, sending notices, and preparing reports and files.

CODE ENFORCEMENT OFFICER. Any city employee or agent of the city with the authority to enforce any provision of this code and issue notice of violations or administrative citations.

RESPONSIBLE PARTY. Any person or persons in charge of the premises or location the person or persons responsible for the event or incident, and includes any of the following:

- (1) The person or persons who own the property where the violation exists;
- (2) The person or persons in charge of the premises where the violations exists;
- (3) The person or persons using the premises when the violation exists;
- (4) If any of the above is a minor, a parent or guardian of such minor shall be the **RESPONSIBLE PARTY**; and

(5) If any of the above is a business entity, the manager or on-site supervisor where the violation exists.

ROLLING 12-MONTH PERIOD. Any 12 consecutive months following a violation.

(Prior Code, § 6-16-2)

§ 32.03 GENERAL ENFORCEMENT AUTHORITY.

For the purposes of this chapter, any Code Enforcement Officer may issue notices of violation and administrative citations, inspect public and private property, and enforce any available administrative and judicial remedies.

(Prior Code, § 6-16-3)

§ 32.04 GENERAL DUTIES.

The general duties of the Code Enforcement Officer shall be, but are not limited to, the following:

(A) To respond to complaints from the public or other city departments and initiate code enforcement action;

(B) Investigate alleged violations, perform inspections, conduct interviews, document and photograph evidence, and contact responsible party; issue notice of ordinance violations and administrative citations; enforce any administrative and judicial remedies; and perform follow-up investigations and ensure remedial action has been taken. The Code Enforcement Officer may be required to seek an administrative inspection warrant pursuant to the procedures provided for in the state codified laws;

(C) Assist departments with the abatement of violations; provide surveillance, coordinate investigation, and code enforcement activities between departments and municipalities;

(D) Recommend changes to policies, procedures, and ordinances as needed where deficiencies are discovered during the administrative and judicial process;

(E) Appear as a witness at administrative hearings and judicial proceedings;

(F) Maintain a permanent record of all code enforcement activities, including copies of correspondence, notifications, investigative reports, and administrative citations. Prepare and submit statistical reports as required; and

(G) Perform other such duties and functions as are necessary or incidental to the proper performance of this position.

(Prior Code, § 6-16-4)

§ 32.05 AUTHORITY TO INSPECT.

Code enforcement officers may enter upon any property and make any examination and surveys necessary to perform their enforcement duties. Inspections may include the taking of photographs, samples, or other physical evidence. If an owner, occupant, or agent refuses permission to enter, to inspect, the Code Enforcement Officer may seek an administrative inspection warrant pursuant to the procedures provided for in the state codified laws.

(Prior Code, § 6-16-5)

§ 32.06 ADMINISTRATIVE CITATIONS.

(A) Any person violating any provision of the code for which a civil penalty may be assessed, may be issued an administrative citation by a Code Enforcement Officer as provided for in this chapter.

(B) A continuing violation of the code constitutes a separate and distinct violation each day that the violation exists.

(C) A civil penalty shall be assessed by means of an administrative citation issued by the Code Enforcement Officer and shall be payable directly to the city.

(D) Penalties assessed by an administrative citation shall be collected in accordance with the schedule of civil penalties.

(E) All civil penalties and fines shall be paid at the City Finance Office at 800 Main Street, Webster, SD.

(Prior Code, § 6-16-6)

§ 32.07 ADMINISTRATIVE CITATION PROCEDURES.

(A) A Code Enforcement Officer may issue an administrative citation to a responsible party as described in this chapter. The citation shall be on forms approved by the city.

(B) If the responsible party is not an individual, the Code Enforcement Officer shall attempt to issue the owner an administrative citation. If the owner cannot be located, the administrative citation may be issued in the name of the entity and given to a manager or on-site supervisor. A copy of the administrative citation shall also be mailed to the owner.

(C) The responsible party shall sign the administrative citation. If the responsible party refuses or fails to sign the administrative citation, the failure or refusal to sign shall not affect the validity of the citation.

(D) If the Code Enforcement Officer cannot locate a responsible party, the administrative citation may be mailed to the

responsible party as prescribed in division (B) above.

(E) If no one can be located at the property, the administrative citation may be posted in a conspicuous place on or near the property and a copy subsequently mailed to the responsible party as provided in division (B) above.

(F) The failure of any responsible party to receive notice shall not affect the validity of any proceedings taken under this chapter.

(G) Notice by mail shall be by either first class or certified mail, return receipt requested.

(Prior Code, § 6-16-7)

§ 32.08 APPEAL AND ADMINISTRATIVE HEARING.

Any administrative citation issued pursuant to this chapter may be appealed to the City Council in the following manner.

(A) If the responsible party disputes the issuance of any administrative citation issued by this chapter, the responsible party must request in writing that the matter be appealed to the City Council.

(B) The written request may be delivered to City Hall or mailed to City Hall.

(C) The request must be either delivered or postmarked within five business days of the responsible party receiving the citation.

(D) The date of issuance of the citation shall not count toward computing the five days.

(E) Upon receipt of the request for appeal, the Finance Officer shall schedule the appeal to be heard at the next regularly scheduled City Council meeting after allowing for proper notice.

(F) The responsible party requesting the appeal shall be given notice in writing by the City Finance Officer of the time and place of the appeal hearing. Notice may be made by mail or personal service and shall be at least four business days prior to the City Council meeting.

(G) At the hearing, the responsible party may provide testimony or evidence regarding the determination of the Code Enforcement Officer's determination.

(H) The Code Enforcement Officer shall be present to answer any questions the City Council may have.

(I) After hearing from the responsible party and the Code Enforcement Officer, the City Council shall vote to either uphold or overrule the Code Enforcement Officer's determination by a majority of the members present.

(Prior Code, § 6-16-8)

§ 32.09 HEARING PROCEDURES.

The following rules shall govern the procedures for an appeal or administrative hearing.

(A) Hearing and administrative appeals need not be conducted according to the technical rules relating to evidence and witnesses.

(B) Oral evidence shall be taken only on oath or affirmation.

(C) The Chairperson of the Council or Mayor shall administer oath or affirmations to witnesses.

(D) Any relevant evidence shall be admitted if it is the type of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper admission of such evidence after objection in civil actions in a court of competent jurisdiction in this state.

(E) Irrelevant and unduly repetitious evidence and evidence that lack trustworthiness shall be excluded.

Prior Code, § 6-16-9)

§ 32.10 RIGHT OF PARTIES AT HEARINGS.

The appellant, the city, and any other party to the appeal shall have these rights among others:

(A) To call and examine witnesses on any matter relevant to the issue of the hearing;

(B) To introduce documentary and physical evidence;

(C) To cross-examine opposing witnesses on any matter relevant to the issues of the hearing; and

(D) To rebut evidence.

(Prior Code, § 6-16-10)

§ 32.11 DECISION.

After each appeal hearing, the City Council shall perform the following:

(A) Make written findings of fact; and

(B) Based upon such written findings, sustain, remand for further hearing or action, or rescind the complained action or decision. The City Council may waive any payment or penalty.

(Prior Code, § 6-16-11)

§ 32.12 REPORT; COSTS.

A written report of the decision, including the findings of fact, shall be furnished to the appellant and the city within 15 working days from the date of the appeal hearing. The city and the appellant shall bear the cost of the appeal proceeding. The decision of the City Council shall be final.

(Prior Code, § 6-16-12)

§ 32.13 APPEAL TO CIRCUIT COURT.

The decision of the City Council may be appealed to circuit court as approved by law.

(Prior Code, § 6-16-13)

§ 32.14 ADMINISTRATIVE CITATION PENALTIES ASSESSED.

(A) Any civil penalties assessed shall be payable to the city within ten days from the date of the administrative citation.

(B) Payment of the civil penalty shall not excuse the failure to correct the violations nor shall it bar further enforcement action by the city.

(C) If the responsible party fails to correct the violation, subsequent administrative citations may be issued for the same violations. The amount of the civil penalty shall increase at a rate specified in the ordinance codified in this chapter.

(Prior Code, § 6-16-14)

§ 32.15 FAILURE TO PAY ADMINISTRATIVE CITATION PENALTIES.

The failure of any person to file a timely appeal or pay the civil penalties within the time specified on the citation shall constitute an irrebuttable presumption that a violation has occurred. It may result in the City Attorney filing legal proceedings in magistrate or circuit court, alternatively the city may pursue any other legal remedy available to collect the civil penalty or correct the violation of city ordinance or both.

(Prior Code, § 6-16-15)

§ 32.16 SCOPE OF ENFORCEMENT.

The civil penalties cited under this chapter apply to all provisions in this code.

(Prior Code, § 6-16-16)

§ 32.17 FINES.

The fines for violation of this code within any rolling 12-month period shall be as follows:

(A) First violation: \$100;

(B) Second violation: \$150; and

(C) Third or subsequent violation: \$200.

(Prior Code, § 6-16-17)

§ 32.18 REMEDIES NOT EXCLUSIVE.

The procedures established in this chapter are in addition to together legal remedies established by law or city ordinance which may be pursued to address violations of this code. The use of this chapter shall be at the sole discretion of the city.

(Prior Code, § 6-16-18)

CHAPTER 33: POLICE DEPARTMENT

Section

33.01 Chief of Police

33.02 Code of conduct

§ 33.01 CHIEF OF POLICE.

Under the direction of the Mayor and City Council, the Chief of Police is responsible for planning, organizing, and directing the functions of the Police Department. The Chief of Police determines policies to be followed by personnel in the Department with respect to public relations, and enforcement of law and ordinances. The Chief of Police coordinates municipal law enforcement activities with those of other agencies, analyzes budgetary problems and submits an annual budget, administers personnel policies and training requirements, and makes recommendations on all appointments, promotions, discipline, and dismissals made in the Department. The Chief of Police maintains a liaison with municipal officials, civic groups, and citizens on law enforcement concerns.

(Prior Code, § 1-4-1)

§ 33.02 CODE OF CONDUCT.

Each police officer, when on duty, shall follow the guidelines and regulations concerning law enforcement employees; wear the insignia of his or her office on his or her outer garments in a conspicuous place, except when occasion may require that it not be exposed; and must be quiet, civil, and orderly in his or her on and off duty conduct and refrain from violent, profane, obscene and insolent language, and abstain from intoxicating liquor, insubordination, and dereliction of duty; and it shall be the duty of the Chief of Police to make complaint to the Mayor or the City Council of any violation of this section immediately upon obtaining knowledge thereof. All law enforcement officers in the employ of the city shall be fully certified by the state.

(Prior Code, § 1-4-2)

§ 33.03 CONTRACT WITH COUNTY.

The City Council is authorized to contract with the county to care for either county or city prisoners, and such other terms as may be agreed upon between the City Council and the County Commissioners.

(Prior Code, § 1-4-3)

CHAPTER 34: HEALTH REGULATIONS

Section

Health Code

- 34.01 Establishment of appointment
- 34.02 Removal of offensive matter from premises
- 34.03 Services of notices, citations, and orders
- 34.04 Sanitary inspections

Contagious Diseases

- 34.15 Isolation of persons suffering with contagious diseases
- 34.16 Powers of Board and Health Officer

HEALTH CODE

§ 34.01 ESTABLISHMENT OF APPOINTMENT.

There is hereby created for the city, a Board of Health to be composed of the members of the City Council and may also include an active practicing physician located in the city, to be appointed by the Mayor. The powers and duties, hereinafter enumerated, shall be subject to the supervision of the state. The City Finance Officer shall be Secretary of the Board of Health.

(Prior Code, § 6-1-1)

§ 34.02 REMOVAL OF OFFENSIVE MATTER FROM PREMISES.

The Board of Health shall have power and authority to require any person or persons owning property within the city to remove all offensive, dangerous, and deleterious matter from said premises, and to that end shall have power and authority to enter upon any premises or in any building in the city to examine the same, and in case there is found to be any offensive, dangerous, deleterious matter on said premises, or in said building, may direct in writing the removal thereof; and if such person or persons shall neglect or refuse to do so for a period of 24 hours after such notice, he or she, upon conviction thereof, shall be subject to the penalties as set in § 10.99, together with the expenses of removing such nuisance and costs of prosecution, and it is hereby made the duty of the Chief of Police, under the direction of the Board of Health, to remove and abate such nuisance immediately upon the expiration of 24 hours after the notice aforesaid.

(Prior Code, § 6-1-2)

§ 34.03 SERVICES OF NOTICES, CITATIONS, AND ORDERS.

In order to carry out the intent of this chapter, whenever the chapter provides that notices, citations, and orders are to be made or served by the Board of Health, such notices, citations, and orders may be made and served in a like manner and with like effect by the City Council.

(Prior Code, § 6-1-3)

§ 34.04 SANITARY INSPECTIONS.

(A) The Board of Health shall make frequent inspections of the city and its environs. In all cases where anything is discovered which might prove dangerous to health, appropriate action will be taken.

(B) Each month, one week prior to the City Council meeting, a member from the Board of Health shall make a thorough inspection of the streets, alley, and public grounds in the city and notify the owner or occupant of any property where filth, manure, straw, or rubbish is permitted to remain upon any street or alley abutting upon such property. If such owner or occupant shall fail to comply with such notice, he or she shall be subject to the penalty set by § 10.99.

(Prior Code, § 6-4-1)

CONTAGIOUS DISEASES

§ 34.15 ISOLATION OF PERSONS SUFFERING WITH CONTAGIOUS DISEASES.

The Board of Health shall have power within the limits of the city to isolate all persons suffering with contagious diseases, and to make, demand, and require of the County Board of Health to immediately remove and care for all the cases as are not proper charges on said city; and said Board of Health shall have power to make rules and regulations covering the subject of all contagious diseases and other matters concerning the public health.

(Prior Code, § 6-2-1)

§ 34.16 POWERS OF BOARD AND HEALTH OFFICER.

The Board of Health shall have power and authority to enter any premises in the city in search of contagious diseases or of nuisances, and shall have power and authority to quarantine any premises within the city, wherein is located any person suffering with an infectious or contagious disease, and may remove any person therefrom who is found to be suffering from, suspected to be suffering from, or has been exposed to any infectious or contagious disease, and said Board may placard the said premises, as aforesaid with the placard of such design and color as shall warn all persons within said premises not to leave the same, and all other persons whomever not to enter said premises without the written consent of a member of the Board of Health; every physician practicing in the corporate limits of the city shall immediately report by telephone, or otherwise, to the Health Officer every case of contagious disease or infectious disease arising in his or her practice, and shall also report the suspects to be contagious, and said physician shall within 24 hours after thereafter make a written report to the Board of Health upon the termination of said disease, and any person violating this chapter, or violating the order of the Board of Health, shall upon conviction thereof be subject to the penalties in this chapter.

(Prior Code, § 6-2-2) Penalty, see § 10.99

CHAPTER 35: FINANCES

Section

Financial Regulations

- 35.01 Salaries
- 35.02 Waterworks revenues
- 35.03 Sewer revenues
- 35.04 Liquor revenues
- 35.05 Mark up fees
- 35.06 Swimming pools and parks revenue
- 35.07 Miscellaneous revenues

Webster Community Development Fund

- 35.20 Eligibility requirements
- 35.21 Fund expenditures

- 35.22 Project impact factors
- 35.23 Application requirements
- 35.24 Application processing

Fee Schedule

- 35.35 Fee schedule

FINANCIAL REGULATIONS

§ 35.01 SALARIES.

The salaries of the various officers shall be paid from such funds as may be from time to time designated by resolution of the City Council.

(Prior Code, § 1-3-1)

§ 35.02 WATERWORKS REVENUES.

All revenues of the city received from the operation of the city waterworks shall be paid to the Finance Officer and shall be credited to the Water Fund of said city.

(Prior Code, § 1-3-2)

§ 35.03 SEWER REVENUES.

All revenues of the city received from the operation of the city sewer shall be paid to the Finance Officer and shall be credited to the Sewer Fund of said city.

(Prior Code, § 1-3-3)

§ 35.04 LIQUOR REVENUES.

All revenues and lease fees of the city received from the operation of the city liquor licenses shall be paid into the Liquor Fund of said city.

(Prior Code, § 1-3-4)

§ 35.05 MARK UP FEES.

All lessees under operation/lease agreement with the city for the sale of liquor and all licensees licensed in accordance with SDCL 35-4-19 shall purchase all alcoholic beverages, including malt beverages, from the city. The city may charge such lessee or licensee a mark up fee up to 10% above the city's cost for the liquor or malt beverage plus freight. The city may establish the mark up fee by resolution. All mark up fees established by the city shall be charged uniformly to all lessees and licensees except for liquor versus malt beverage.

(Prior Code, § 1-3-5)

§ 35.06 SWIMMING POOLS AND PARKS REVENUE.

All revenues of the city received from the operation of parks and swimming pool shall be paid to the Finance Officer and shall be credited to the General Fund of the city.

(Prior Code, § 1-3-6)

§ 35.07 MISCELLANEOUS REVENUES.

All revenues of the city received from licenses, fines, interest, and other fees shall be paid to the Finance Officer and credited to the General Fund unless otherwise specifically provided by ordinance.

(Prior Code, § 1-3-7)

WEBSTER COMMUNITY DEVELOPMENT FUND

§ 35.20 ELIGIBILITY REQUIREMENTS.

Any for-profit industry that is a new start-up or an expanding existing industry creating new and additional jobs which will result in more employment opportunities in the city area will be eligible to apply for the use of funds from the city's Community Development Fund. No monies from the city's Community Development Fund shall be loaned for retail businesses.

(Ord. passed - -)

§ 35.21 FUND EXPENDITURES.

(A) The city's Community Development Fund shall be used for land acquisition and related development and building construction, acquisition, or related remodeling projects, purchase of machinery or equipment, which are determined to enhance industrial development growth. It is proposed that the monies from the city's Community Development Fund will be used in a manner that will result in an ongoing revolving Economic Development Fund. It is the intent of the City Council that the city's Community Development Fund be used as a low interest, secured source of lending for an industry, created solely for the purposes of promoting development within the city.

(B) Funds in the city's Community Development Fund account shall be held in an interest bearing account for the purposes set forth in this subchapter.

(Ord. passed - -)

§ 35.22 PROJECT IMPACT FACTORS.

(A) The City Council will review, evaluate, and make decisions on specific project applications.

(B) The following factors and other factors deemed appropriate with each application will be given due consideration:

- (1) Number and quality of new jobs to be created;
- (2) Annual payroll and related pay structures;
- (3) Benefit versus costs effects;
- (4) Effect on utilities and other services;
- (5) Effect on environment, health, and safety;
- (6) Business type and feasibility; and
- (7) Other appropriate factors.

(C) It is the intent of the City Council for the interest rate of the loans be offered at a below market condition rate to be set by the City Council. In determining the interest rate to be set for a specific project, the City Council will give due consideration to the project impact factors listed above. The attached table has been developed to provide a general guideline regarding rating projects for interest rate purposes.

(Ord. passed - -)

§ 35.23 APPLICATION REQUIREMENTS.

Prospective industries will contact the city's development corporation for assistance in submitting an application for economic development funding. The applicant with assistance from the city's development corporation shall submit information to the city on application forms prepared by the state's Economic Development Board and also on such forms as deemed necessary by the city. The city application forms are intended to provide detailed information regarding the proposed specific impacts the industry will have on the local city area. The provisions of ARSD Chapter 68:02:01 relating to application and borrower reporting requirements of the state's economic development regulations shall also be required by the city. In general, the application forms and related information will be handled by the city in a confidential manner in accordance with law.

(Ord. passed - -)

§ 35.24 APPLICATION PROCESSING.

The City Council shall approve or disapprove a specific project application request by Board action within 30 days after receiving an application deemed to be complete. After an application is approved, the city shall execute agreements as necessary. Agreements shall provide the rights and responsibilities of all parties and the terms and conditions of the agreement. Said agreements shall be authorized by resolution pursuant to statute.

(Ord. passed - -)

FEE SCHEDULE

§ 35.35 FEE SCHEDULE.

The city hereby establishes the following fees and other designations effective for the 2021 license year (fees are for the calendar year unless otherwise stated).

<i>Fee Schedule</i>	
<i>Subject</i>	<i>Fee</i>
<i>Fee Schedule</i>	
<i>Subject</i>	<i>Fee</i>
<i>Armory Rental</i>	

With organizations that request permission to serve alcohol	\$500 a day
Cemetery Fees	
Burials	\$650
Cemetery sale of lots (six to a one-half lot)	\$300
Cremains	\$100
Saturday or Sunday services or holiday	\$100 extra
Winter cremains	\$650
Winter storage of casket in building	\$25
Dogs and Cats	
Dog and cat licenses	\$5
Dogs and cats fail to license	\$25 (§ 90.01)
Dogs at large or barking	First offense: \$110; second: \$160; third: \$210 (§§ 90.06 and 90.07)
Fines and Fees	
Abandoned vehicles	Costs of removal and storage, plus see §§ 32.01 to 32.18 (§§ 93.001 to 93.011)
Campground fees - west	Per day: \$20 Per week: \$100 Per month: \$300 Overnight campground: First night free, then \$15 per night
Costs of cleaning up properties by city (includes hauling demolished structures out and cleaning up junk on properties)	\$200 minimum - over one hour \$200 per hour (§§ 92.15 to 92.24)
Fine for fireworks in city limits	\$50 (§§ 94.070 to 94.071)
Fine for hindering firefighters and driving over fire hose	\$150 (§§ 94.020 and 94.021)
Fine for illegal parking	\$75 plus \$5 each day delinquent (§§ 71.01 to 71.15)
Fine for noise violation	\$150 (§ 70.068)
Fine for not removing doors and locks on refrigerator or freezers	See §§ 32.01 to 32.18 (§§ 91.01 and 91.02)
Fine for not removing noxious weeds	See §§ 32.01 to 32.18 (§ 92.99)
Fines and Fees	
Fine for not removing trees with Dutch Elm Disease	Costs of removal, plus see §§ 32.01 to 32.18 (§ 96.99)
Fine for open bottles or cans containing alcoholic liquor	\$25
Fine for parking on designated streets overnight	\$15 (§§ 71.01 to 71.15)
Fine for snowmobile violations	\$100 (§§ 73.01 to 73.14)
Fine for violating firewood ordinance	\$25 per day, plus see §§ 32.01 to 32.18 (§ 70.078)
Fine for violating health orders	To be determined (§ 34.16)
Fines for administrative code enforcement (see Chapter 32)	First violation: \$100; Second violation: \$150; Third or subsequent violation: \$200
Penalty for garbage nuisance	See §§ 32.01 to 32.18 (§ 50.06)
Golf Fees	
All day	\$50 cart and green fees All day \$30 green fees only
Cart rental	9 holes \$15; 18 holes \$20
Carhouse rental	Gas: \$139.53 + \$10.47 tax = \$150; Electric: \$162.79 + \$12.21 tax = \$175; *Trail fee: \$46.51 + \$3.49 tax = \$50 * for all people with carts
Fee to rent clubhouse	\$75 per day
Green fees	All days 9 holes: \$15; 18 holes: \$20
Memberships	Family: \$325.58 + \$24.42 tax = \$350; Couple \$279.07 + \$20.93 tax = \$300; Individual: \$209.30 + \$15.70 tax = \$225; Highschool/college: \$93.02 + \$6.98 tax = \$100; Grade/middle school: \$69.77 + \$5.23 tax = \$75; and Social: \$27.91 + \$2.09 = \$30
Tournament fee	\$400 (effective April 2, 2012)
Trail fee daily	\$5
Miscellaneous	
Cost to replace blacktop when digging in water/sewer service	\$10 per square foot (§ 93.120)
Miscellaneous	

Curfew	First offense: warning to the minor child (under the age of 16) and/or parent/guardian that curfew is being broken; Second offense: \$50 fine issued to child's parent/guardian; and Third offense: \$100 fine issued to child's parent/guardian. (§§ 131.01 to 131.04)
Designate truck routes	Main, 1st Ave. East, 5th Ave. East, 4th St. East from 1st Ave. to 5th Ave. (§§ 72.25 to 72.31)
Mowing and Snow Removal Costs	
Costs of mowing lawns by city	\$200 minimum - over one hour; \$200 per hour (§ 92.04)
Costs of removing snow from sidewalks by city	\$50 minimum - over one hour \$50 per hour (§ 93.062)
Pushing or dumping snow on city streets or alleys	\$100 hauling fee (§ 93.060)
Permits and Licenses	
Bicycle licenses	\$2 (§ 73.25)
Building permits	Values under \$1,000 are \$15, values \$1,000 and over are \$25 (§ 150.006)
Electrical license	Initial fee \$60 - renewal fee \$15 (§ 150.037)
Garbage license - yearly	\$250 per year - resolution to set rates - notify city (§§ 111.20 to 111.28)
Junkyard licenses	To be determined
Permit for slaughter house and penalty	To be determined (§§ 112.01 to 112.05)
Permits for excavations	One call takes care of
Plumbing license	Initial fee \$60 - renewal fee \$15 (§§ 150.065 to 150.069)
Special alcoholic beverage license	\$50 (§ 112.56)
Recreation Fees	
General admission	\$1 children one to five years old; \$2 children six to 17 years old; \$4 adults
Lap swim	\$2 session
Lessons	\$30 per child; \$25 per child with season pass; \$15 preschool
Pool fees (Revised 2020)	\$80 family pass; \$60 adult pass (18 and over); \$40 youth
Water walking	\$2 session
Water and Sewer Connection Fees	
Nonresident user fee	\$30 per month (§ 52.10)
Sewer connection fee (to the main)	\$125 (§ 52.01)
Sump pumps in sanitary sewer	\$100 day (§ 52.07)
Water connection fee (to the main)	\$125 (§ 51.05)
Water re-connect fee	\$25 (§ 51.26)

(Res. 192, passed 2-3-2020; Res. 202, passed 2-1-2021)

TITLE V: PUBLIC WORKS

Chapter

50. GARBAGE

51. WATER

52. SEWERS

CHAPTER 50: GARBAGE

Section

General Provisions

- 50.01 Definitions
- 50.02 Garbage to be deposited in containers
- 50.03 Nonresident garbage
- 50.04 Garbage must be wrapped
- 50.05 Burning garbage and rubbish
- 50.06 Garbage that becomes a nuisance

50.07 Prohibited dumping/disposal

Disposal of Rubble, Commercial Solid Waste, and the like

50.20 Removal of garbage, commercial solid waste, and household waste

50.21 Removal of rubble, bulky items, and white goods

50.22 Bagging and tying of garbage

50.23 Definitions

50.99 Penalty

GENERAL PROVISIONS

§ 50.01 DEFINITIONS.

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

GARBAGE. Solid and semi-solid putrescible animal and vegetable wastes resulting from 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.

(Prior Code, § 6-5-1)

GARBAGE CONTAINER. A water-tight metallic or plastic can, of a size permitted by the holder of the solid waste license with whom the owner or operator of each business or residence has contracted, covered with a tight-fitting metal or plastic lid, which container must be kept in a sanitary condition at all times, with the outside thereof free and clean of grease or decomposed matter, secured in such manner that it cannot be tipped or spilled by dogs or marauders.

(Prior Code, § 6-5-2)

§ 50.02 GARBAGE TO BE DEPOSITED IN CONTAINERS.

(A) The occupant of every private home or dwelling place, and the operator of every place of business in the city, is hereby required to deposit and keep the garbage that accumulates each day in a garbage container as above defined.

(B) Grass, leaves, or other material to be used as compost for fertilizer may be kept in a pit or closed container, until such time as it may be used.

(Prior Code, § 6-5-3)

§ 50.03 NONRESIDENT GARBAGE.

No person shall bring garbage, rubble, commercial solid waste, bulky items, household waste, or white goods from outside the city limits to deposit in containers of any type anywhere within the city unless previous arrangements have been made with the garbage contractor.

(Prior Code, § 6-5-4) Penalty, see § 50.99

§ 50.04 GARBAGE MUST BE WRAPPED.

All garbage shall be wrapped in paper, plastic, or other material so as to prevent, as nearly as possible, moisture from the garbage from coming in contact with the sides and bottom of the garbage container.

(Prior Code, § 6-5-5)

§ 50.05 BURNING GARBAGE AND RUBBISH.

There shall be no burning of garbage, rubbish, rubble, or refuse within the city limits. This section shall not apply to incinerators or fireplaces located within a building or to actions of the Fire Department in firefighting or ridding the city of a nuisance or hazard.

(Prior Code, § 6-5-6) Penalty, see § 50.99

§ 50.06 GARBAGE THAT BECOMES A NUISANCE.

Every accumulation of garbage which is deposited, kept, burned, or transported without contractor's permission to any place in the city in violation of the provisions of this subchapter is hereby declared to be a public nuisance, and any person who maintains or permits the maintenance of such nuisance shall, upon conviction, be subject to the penalties established in this subchapter.

(Prior Code, § 6-5-7) Penalty, see § 50.99

§ 50.07 PROHIBITED DUMPING/DISPOSAL.

The city may maintain and operate a restricted use site at its discretion. The dumping and/or disposal of any object on or within the city restricted use site is prohibited.

(Prior Code, § 6-8-1) Penalty, see § 50.99

DISPOSAL OF RUBBLE, COMMERCIAL SOLID WASTE, AND THE LIKE

§ 50.20 REMOVAL OF GARBAGE, COMMERCIAL SOLID WASTE, AND HOUSEHOLD WASTE.

The owner or operator of each business and residence within the city shall contract for the regular removal and disposal of all garbage, commercial solid waste, and household waste with a person or entity who holds a valid solid waste license issued by the city.

(Prior Code, § 6-6-1)

§ 50.21 REMOVAL OF RUBBLE, BULKY ITEMS, AND WHITE GOODS.

Individuals may remove their own rubble, bulky items, and white goods without obtaining a license, providing the rubble, bulky items, and white goods are disposed of in a legally permitted facility.

(Prior Code, § 6-6-2)

§ 50.22 BAGGING AND TYING OF GARBAGE.

(A) All garbage, commercial solid waste, and household waste shall be bagged, tied, and placed in a suitable container at the curbside or alley side adjacent to the residence or business in accordance with the wishes of, and at the times directed by, the dray businesses with whom the person or business has contracted for the removal of garbage, commercial solid waste, and household waste.

(B) Suitable containers are those receptacles equipped with a lid to prevent the contents of the containers from being blown out and scattered.

(Prior Code, § 6-6-3)

§ 50.23 DEFINITIONS.

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

ASH. Residue from the combustion of solid waste generated by stores, offices, restaurants, warehouses, printing shops, service stations, and other non-manufacturing, non-household sources.

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

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

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

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

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

SOLID WASTE. Any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, and any other discarded materials, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, and agricultural operations, and from community activities, but does not include mining waste in connection with a mine permitted under SDCL Title 45.

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

(Prior Code, § 6-6-4)

§ 50.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) The penalty for violating §§ 50.20 to 50.23 shall be a fine not exceeding \$200 or by imprisonment not exceeding a maximum of 30 days, or by both such fine and imprisonment.

(Prior Code, § 6-6-5)

CHAPTER 51: WATER

Section

- 51.01 Duties of City Council
- 51.02 Appointment and compensation of employees
- 51.03 Map of water mains
- 51.04 Inventory and record
- 51.05 Fees for connection
- 51.06 Repair of service
- 51.07 Cut offs
- 51.08 Meter required; fees
- 51.09 Placing of meters and cutoff valves
- 51.10 Owner responsible for pipes and fixtures
- 51.11 Notice to discontinue required
- 51.12 More than one consumer from one service
- 51.13 Must not permit others to use water
- 51.14 Valve between meter and broiler
- 51.15 Building purpose
- 51.16 Testing meters
- 51.17 Meter reading
- 51.18 Meters failing to register
- 51.19 Inspections
- 51.20 Interfering with fire hydrants
- 51.21 Only licensed plumbers allowed
- 51.22 Breaking seals
- 51.23 Pipes inspected before covered
- 51.24 May shut-off water to make repairs
- 51.25 Leave water turned off
- 51.26 Water shut-off expense
- 51.27 Water rates
- 51.28 Collection of water fee
- 51.29 Delinquent rents
- 51.30 Owner and lessee liable
- 51.31 Fires
- 51.32 Drinking fountains
- 51.33 Use without meter unlawful
- 51.34 Water restrictions

- 51.99 Penalty

§ 51.01 DUTIES OF CITY COUNCIL.

The City Council shall have the immediate control, protection, and management of everything appertaining to the waterworks of the city and have all the powers and duties hereinafter enumerated.

(Prior Code, § 10-2-1)

§ 51.02 APPOINTMENT AND COMPENSATION OF EMPLOYEES.

The City Council shall appoint all other regular employees of the waterworks, and fix the salaries or compensation of every person connected therewith.

(Prior Code, § 10-2-2)

§ 51.03 MAP OF WATER MAINS.

The City Council may provide and maintain a comprehensive map of all water mains, branches, extensions, hydrants, and gates, showing their location and size. Any changes of or additions to the water system require that the maps and records thereof be corrected and enlarged as the occasion may require. The map will be on file with the Finance Officer.

(Prior Code, § 10-2-3)

§ 51.04 INVENTORY AND RECORD.

The Finance Officer shall, at the end of each year, make and file with the City Council, a complete inventory in detail, of all tools, implements, furniture, and other articles of personal property belonging to the Water Department.

(Prior Code, § 10-2-4)

§ 51.05 FEES FOR CONNECTION.

The City Council is hereby authorized by resolution to prescribe a schedule of fees for making a tap upon the city water mains and connections to the curb stop.

(Prior Code, § 10-2-5)

§ 51.06 REPAIR OF SERVICE.

Whenever any iron service pipe breaks or leaks between the corporation cock and meter, such iron service pipe must be replaced with copper or 160 pounds per square inch pipe, and all service pipes between the corporation cock and the meter hereafter installed, or changed shall be copper or 160 pound per square inch pipe; and if copper pipe is used, the same shall be extra heavy soft copper pipe known as "Type K" stamped thereon.

(Prior Code, § 10-2-6)

§ 51.07 CUT OFFS.

All stop boxes and cut offs for controlling the supply of water to consumers shall be placed approximately six 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 the water supply is controlled by a valve in the street, which must be man holed. 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.

(Prior Code, § 10-2-7)

§ 51.08 METER REQUIRED; FEES.

All places supplied with water shall be metered by a meter furnished by the city and of a type approved by the City Council. All meters shall be tested before installation. The city will make all necessary repairs to meters.

(Prior Code, § 10-2-8)

§ 51.09 PLACING OF METERS AND CUTOFF VALVES.

All meters shall be suitably placed on service pipe, with a compression stop and waste on the inlet side next to the meter, so as to be easy access and whenever possible not to exceed two 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 the same may be easily 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 the same, and must be kept accessible at all times and a dual backflow preventor should be installed.

(Prior Code, § 10-2-9)

§ 51.10 OWNER RESPONSIBLE FOR PIPES AND FIXTURES.

The city shall be responsible for the maintenance and proper operation of the water mains only. Persons taking water from

a distributing pipe must keep their service pipe and all fixtures connected therewith in good repair and protected from frost at their own expense. The term **FIXTURES** means all appurtenances from the point of tap, the function of which is to provide water to a specific property, and shall include, but not be limited to, the saddle, corporation valves, curb stop, and all service pipe. No claim shall be made against the city by reason of the breaking of any of the service pipes or apparatus, or for any other damage that may result from any shutting off or turning on of water, or for any variation of pressure. Water shall not be wasted or improperly used and no reduction will be made from the rates because of leaking pipes or fixtures or for any other cause.

(Prior Code, § 10-2-10) (Ord. 512, passed 6-3-2019)

§ 51.11 NOTICE TO DISCONTINUE REQUIRED.

(A) Owners or consumers desiring to discontinue the use of water shall give notice thereof to the Finance Officer, and the minimum charge for water rent as provided in § 51.30 shall in all cases apply until such notice is given and the water service discontinued, regardless of whether said premises are occupied and used, or not.

(B) Upon the receipt of such notice, it shall be the Duty of the Water/Sewer Department to at once shut off the water at the curb cock, and the water shall not be turned on again unless a fee is paid to cover the expense of shutting off and turning on. Said fee shall be in an amount set by the City Council and on file in the office of the Finance Officer.

(Prior Code, § 10-2-11)

§ 51.12 MORE THAN ONE CONSUMER FROM ONE SERVICE.

Two or more premises cannot be supplied from the same service pipe unless each premises has its own curb cock. Owners of buildings who lessee or subdivide shall be responsible for all water used in said premises. If more than one meter is placed upon one service pipe, the piping must be arranged 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.

(Prior Code, § 10-2-12)

§ 51.13 MUST NOT PERMIT OTHERS TO USE WATER.

No consumer shall permit the owner or occupant of any other premises to use water from his or her service, except by special permission from the City Council.

(Prior Code, § 10-2-13) Penalty, see § 51.99

§ 51.14 VALVE BETWEEN METER AND BROILER.

When a meter is placed on pipe connected to a broiler or other hot water apparatus, an approved check and relief valve must be placed between such meter and said broiler or other hot water apparatus.

(Prior Code, § 10-2-14)

§ 51.15 BUILDING PURPOSE.

Contractors, builders, or others desiring water for building purposes must make application to the Finance Officer thereof.

(Prior Code, § 10-2-15)

§ 51.16 TESTING METERS.

In case there is any doubt of the accuracy of any meter on the part of the consumer, he or she may have the meter tested by the city. If the meter should prove to be less than 5% accurate, the consumer will pay for the testing. If the meter proves to be more than 5% accurate, the city will pay for the testing.

(Prior Code, § 10-2-16)

§ 51.17 METER READING.

(A) The Water/Sewer Department will read the water meters monthly and submit the readings to the Finance Office for calculating. The water fee will be set by the City Council and on file in the office of the Finance Officer.

(B) There will be a due date on each bill when the monthly billing is due. Disconnect notices will be sent out the day after the due date on the bill. If the bill is still delinquent, the water will be disconnected.

(Prior Code, § 10-2-17)

§ 51.18 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 whatever, the quantity used shall be determined and the charge made based upon the average amount used during two or more preceding periods of similar length.

(Prior Code, § 10-2-18)

§ 51.19 INSPECTIONS.

The Water/Sewer Department, or such person he or she may direct, shall enter and have free access at all reasonable hours to premises to ascertain the location of all hydrants, pipes, or other fixtures attached to the waterworks; and in case of wasted water on account of negligence or for want of repairs, and if such waste is remedied, the water leading to such premises shall be turned off. The Water/Sewer Department will also give notice of any defective private pipe and demand the necessary repairs be made within 48 hours or the water will be disconnected until the repairs are made. Periodic building inspections shall be made upon issuance of an administrative search warrant for the area, to determine whether the buildings are dangerous buildings within the provisions of this code of ordinances.

(Prior Code, § 10-2-19)

§ 51.20 INTERFERING WITH FIRE HYDRANTS.

No person except the Chief of the Fire Department shall open, take water from, or in any way interfere with, injure, break, or deface any fire hydrant belonging to the city.

(Prior Code, § 10-2-20) Penalty, see § 51.99

§ 51.21 ONLY LICENSED PLUMBERS ALLOWED.

No person except a regularly licensed plumber or his or her employee shall be permitted to do any work on any pipes or connections made with the mains of or in any way connected with the water supply of the city, and no plumber shall directly or indirectly allow any other person to do any work on said appliances under his or her license. All such plumbers shall be governed by all the rules and regulations of this title, and Chapter 150, regulating plumbing and plumbers.

(Prior Code, § 10-2-21) Penalty, see § 51.99

§ 51.22 BREAKING SEALS.

No person shall break any seal upon any meter, valve, private fire hydrant, or other fixtures that may be sealed; 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 Water/Sewer Department within 24 hours.

(Prior Code, § 10-2-22) Penalty, see § 51.99

§ 51.23 PIPES INSPECTED BEFORE COVERED.

No water pipes laid underground shall be covered and the trenches filled until the water has been turned into such pipes and the said pipes have been tested and found to be water-tight and below frost line, except when otherwise specially permitted.

(Prior Code, § 10-2-23) Penalty, see § 51.99

§ 51.24 MAY SHUT-OFF WATER TO MAKE REPAIRS.

In case of leaks or other accidents to pipes or other apparatus connected with the city waterworks, plumbers may shut off water to make necessary repairs, but in all cases where it is necessary to repair or remove water meter, notice may be given to the Water/Sewer Department and no plumber or other person shall remove any meter from a premises or change the location of any meter in any premises without receiving a permit therefor from the Finance Officer. In all cases, when plumbers make repairs to pipes or fixtures on any premises, they shall leave the water turned on or turned off as they found it to be when they entered upon the premises to make such repairs.

(Prior Code, § 10-2-24)

§ 51.25 LEAVE WATER TURNED OFF.

In no case shall any plumber, after the completion and test of any plumbing job, if it be the first installation of service pipe, leave the water turned on but in all cases the stop cock at the curb shall be shut off.

(Prior Code, § 10-2-25)

§ 51.26 WATER SHUT-OFF EXPENSE.

When the water has been shut off on account of nonpayment of its 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 an additional payment of an amount set by the City Council and on file at the office of the Finance Officer, to cover the expense of shutting off and turning 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, he or she shall be deemed guilty of a misdemeanor.

(Prior Code, § 10-2-26)

§ 51.27 WATER RATES.

(A) Domestic and commercial water rates within the city shall be as follows: The minimum water rate within the city limits

shall be \$14 per month, up to 1,000 gallons per month.

(B) Water usage over the minimum of 1,000 gallons per month will be billed at the following rates:

1,001 to 100,000 gallons	\$9 per 1,000 gallons
100,001 to 200,000 gallons	\$8.75 per 1,000 gallons
200,001 to 999,999,999 gallons	\$8.50 per 1,000 gallons

(C) There shall be an additional distribution and maintenance (DM) fee of \$6 per month for each water user including each residence, multiple family and commercial occupancy within the city. This fee shall apply to all vacant structures or lots where city water distribution is available.

(D) In addition to the other water charges, the city hereby establishes a surcharge of \$12.45 payable by each customer of its system who receives or benefits from the services of the project financed by the DW-03 loan with the borrower bond Series 2020. The collection of the surcharge shall start on March 1, 2021. The surcharge shall remain in effect until such time as the borrower bond is paid in full, it shall be collected at the same time as other charges of the system, and establish a surcharge account to segregate the income from other system income for book keeping purposes to be pledged to the State Conservancy District. The surcharge shall be reviewed from year to year and modified in order to provide the required 110% debt coverage.

(E) Any city utility user living outside the city limits will pay an additional user's fee of \$30 per month which will be billed with the monthly charges for water and sewer. This will be charged on each water hook-up and will be treated the same as the DM charge and will apply to all vacant structures or lots where city water distribution is available.

(Prior Code, § 10-2-27) (Ord. 523, passed 10-12-2020)

§ 51.28 COLLECTION OF WATER FEE.

Water fee shall be collected by the Finance Officer who shall keep a true and accurate account of all receipts and collection.

(Prior Code, § 10-2-28)

§ 51.29 DELINQUENT RENTS.

It shall be the duty of the Finance Officer to notify persons whose rent is delinquent and the owner of the property occupied by such persons that unless such delinquent water rent be paid within ten days, the water service will be discontinued, until the past due bill and late charge amount is paid in full. Special circumstances will be dealt with by the City Council. In case the delinquent rent is not paid within that time, the Water Superintendent shall discontinue water service to the property occupied by him or her, together with the fee for turning on the same. The Water Superintendent is authorized to disconnect and take the meter and apply the meter deposit, or any part thereof, or any amount due to the city, under the provisions of this chapter.

(Prior Code, § 10-2-29)

§ 51.30 OWNER AND LESSEE LIABLE.

The owner of private property, which property has upon its pipes connected with the city waterworks to convey water upon such property shall, as well as the lessee or occupant of the premises, be liable to the city for the rents or rates of all water from said waterworks used upon said premises; which may be recovered in an action against such owner, lessee, or occupant, or against any or all of them.

(Prior Code, § 10-2-30)

§ 51.31 FIRES.

In case of fire, the Chief of the Fire Department shall have full management and control for the time being of all mains, gates, and fire hydrants, and it shall be the duty of the Water/Sewer Department to carry out any lawful order of the Fire Department in relation to the waterworks.

(Prior Code, § 10-2-31)

§ 51.32 DRINKING FOUNTAINS.

Service pipes to all outdoor drinking fountains are to be provided with a stopcock or a street valve, which will be under the exclusive control of the city.

(Prior Code, § 10-2-32)

§ 51.33 USE WITHOUT METER UNLAWFUL.

It shall be unlawful for any person to use any water from the city waterworks except through a meter regularly installed

under the provisions of this chapter or turn the water on and off with at any curb cock or street valve without the permission of the City Council.

(Prior Code, § 10-2-33) Penalty, see § 51.99

§ 51.34 WATER RESTRICTIONS.

The City Council shall have the right to limit or prohibit temporarily the use of water from the city distribution system for any purpose excepting domestic purposes within the dwellings of consumer or in business establishments during emergencies in the event of plant breakdown, prolonged drought, or shortage of water supply for any reason to the end that fire protection efficiency may be maintained at its maximum. Notice of such limitation or prohibition of the use of such water shall be given by publishing a notice thereof once in the official newspaper of the city or by personal notice. Any person violating the terms of such prohibition or restriction after such notice shall be guilty of a misdemeanor and subject to penalties in this chapter. Water service to the premises involved may be discontinued entirely during such emergency.

(Prior Code, § 10-2-34) Penalty, see § 51.99

§ 51.99 PENALTY.

Any person violating any of the provisions of this chapter shall, in addition to the ordinary penalties prescribed for violation of this chapter, be subject to having water service turned off from the premises of such person, and service shall not be restored until there has been full compliance of this chapter and the payment of such fees for restoring service as may be provided by this chapter.

(Prior Code, § 10-2-35)

CHAPTER 52: SEWERS

Section

General Provisions

- 52.01 Permit for connection
- 52.02 Assessment for connection
- 52.03 Connection to be made by plumber
- 52.04 Specifications
- 52.05 Grease trap
- 52.06 Connection with cesspools prohibited
- 52.07 Use of storm and sanitary sewers
- 52.08 Use of sanitary sewers
- 52.09 Inspection
- 52.10 Property outside the city limits, charges for use of sewer
- 52.11 Sewer rates
- 52.12 Sewer rents for use
- 52.13 Additional utility fee for service to customers outside of city limits

Sewer Service Charges

- 52.25 Purpose
- 52.26 Determining the total annual cost of operation and maintenance
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- 52.28 Wastewater Facilities Replacement Fund
- 52.29 Review of each user's wastewater service charge
- 52.30 Notification
- 52.31 Wastes prohibited from being discharged to the wastewater treatment system
- 52.32 Prohibition of clear water connections

GENERAL PROVISIONS

§ 52.01 PERMIT FOR CONNECTION.

No person, company, or corporation shall connect its property with any opening or tap into any of the public sewers of the city without first having obtained a permit to do so from the Finance Officer, and the payment of a sum in an amount set by the City Council and on file at the office of the City Finance Officer, plus all costs from main to lot line to the Finance Officer as a fee for permission to connect to the said sewer and inspection of sewer. No permit shall be granted to connect any property with any public sewer in this city, or any connection therewith, until the applicant for the same shall agree to comply with the terms and conditions of this title. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation or the constructing or repairing of a sewer.

(Prior Code, § 10-1-1)

§ 52.02 ASSESSMENT FOR CONNECTION.

Property having paid its just portion of the costs of construction of the sewer to be connected with shall not be required to pay the above fee.

(Prior Code, § 10-1-2)

§ 52.03 CONNECTION TO BE MADE BY PLUMBER.

No person except a licensed plumber working under the supervision of the Water/Sewer Department shall be permitted to make connections with any public sewer.

(Prior Code, § 10-1-3) Penalty, see § 10.99

§ 52.04 SPECIFICATIONS.

All sewers shall be constructed and connected in accordance with the provisions of the National Plumbing Code heretofore adopted by Chapter 150.

(Prior Code, § 10-1-4)

§ 52.05 GREASE TRAP.

A proper grease trap or catch basin shall be provided by all hotels, restaurants, butcher shops, and lard rendering establishments.

(Prior Code, § 10-1-5)

§ 52.06 CONNECTION WITH CESSPOOLS PROHIBITED.

No connection from any cesspool or privy vault shall be made with any sewer or drainage pipe.

(Prior Code, § 10-1-6) Penalty, see § 10.99

§ 52.07 USE OF STORM AND SANITARY SEWERS.

It shall be unlawful for any person in the city to connect any sanitary sewer with any storm sewer, or to permit any sewage to flow or run into any storm sewer; and it shall be unlawful for any person to connect any storm sewer with sanitary sewer or to permit or cause any storm or drainage water to run or flow into any sanitary sewer.

(Prior Code, § 10-1-7) Penalty, see § 10.99

§ 52.08 USE OF SANITARY SEWERS.

It shall be unlawful for any person in the city to permit any blood, buttermilk, whey, and sewer pipe consuming acids to flow or run into any sanitary sewer.

(Prior Code, § 10-1-8) Penalty, see § 10.99

§ 52.09 INSPECTION.

The Water/Sewer Department, as duly authorized representative, shall inspect all sewers, connections, and appurtenances thereto before any trenches and grades are refilled. All sewers shall be left open and clean for inspection of joints and sewer lines. The applicant for the building sewer permit shall notify the Finance Officer when the sewer is ready for inspection. Upon completion of said inspection, the applicant shall be immediately notified if the sewer is approved or rejected.

(Prior Code, § 10-1-9)

§ 52.10 PROPERTY OUTSIDE THE CITY LIMITS, CHARGES FOR USE OF SEWER.

Any property outside the corporate limits of the city may hereafter be connected to the sanitary sewer system of the city. A monthly fee for each and every connection to said sewer system must be paid. The amounts of said fees shall be set by the

City Council and on file at the office of the City Finance Officer.

(Prior Code, § 10-1-10)

§ 52.11 SEWER RATES.

(A) All residential and commercial sewer users shall pay a monthly fee set by the City Council and on file in the office of the Finance Officer. This shall be submitted with water payment to the City Finance Officer no later than the twentieth day of each month.

(B) All users of the wastewater treatment system for the city shall pay to the city such amounts as shall be from time to time be set by ordinance of the City Council.

(C) In addition to such charges as may be necessary to pay the expenses of operation and maintenance of the city's wastewater system, each user of the wastewater system shall pay an initial surcharge in the amount of \$9.20 per month, subject to adjustment from time to time by ordinance of the City Council as necessary to repay a \$2,156,000 loan from the USDA Rural Development over a period of 40 years at an interest rate of 3.25%, in accordance with the loan agreement to be entered into by the city and the USDA Rural Development, the proceeds of which loan are to be used for the wastewater treatment facility expansion project. Such surcharge shall be segregated from all other funds of the city, shall be and are hereby pledged to secure such loan, and shall be used for no purposes other than for the repayment thereof. The collection of the surcharge was established on August 1, 2010.

(D) In addition to the other wastewater charges, the city hereby establishes a surcharge of \$4.35 payable by each customer of its system who receives or benefits from the services of the project financed by the CW-04 loan with the borrower bond Series 2020. The collection of the surcharge shall start on March 1, 2021. The surcharge shall remain in effect until such time as the borrower bond is paid in full, it shall be collected at the same time as other charges of the system, and establish a surcharge account to segregate the income from other system income for book keeping purposes to be pledged to the State Conservancy District. The surcharge shall be reviewed from year to year and modified in order to provide the required 110% debt coverage.

(Prior Code, § 10-1-11) (Ord. 514, passed 9-3-2019; Ord. 523, passed 10-12-2020)

§ 52.12 SEWER RENTS FOR USE.

A monthly rate for use of sewer shall be paid by the owner of the premises to the Finance Officer, who shall keep a true and accurate account of all receipts and collections.

(Prior Code, § 10-1-12)

§ 52.13 ADDITIONAL UTILITY FEE FOR SERVICE TO CUSTOMERS OUTSIDE OF CITY LIMITS.

Any city utility user living outside the city limits of the city will pay an additional users fee of \$30 per month which will be billed with the monthly charges for water and sewer. This will be charged on each water hook-up and will be treated the same as the distribution and maintenance (DM) charge and will apply to all vacant structures where city water distribution is available.

(Ord. 410, passed 7-1-2002)

SEWER SERVICE CHARGES

§ 52.25 PURPOSE.

The purpose of this subchapter shall be to generate sufficient revenue to pay all costs for the operation and maintenance of the complete wastewater system. The costs shall be distributed to all users of the system in proportion to each user's contribution to the total loading of the treatment works. Factors such as strength (BOD and TSS), volume, and delivery flow rate characteristics shall be considered and included as the basis for the user's contribution to ensure a proportional distribution of operation and maintenance costs to each user (or user class).

(Ord. 414, passed 10-7-2002)

§ 52.26 DETERMINING THE TOTAL ANNUAL COST OF OPERATION AND MAINTENANCE.

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

(Ord. 414, passed 10-7-2002)

§ 52.27 DETERMINING EACH USER'S WASTEWATER CONTRIBUTION PERCENTAGE.

(A) The city shall determine for each user or user class the average daily volume of wastewater discharged to the wastewater system, which shall then be divided by the average daily volume of all wastewater discharged to the wastewater system to determine such user's volume contribution percentage. The amount used as the total average daily volume of

wastewater shall exclude infiltration and inflow. The city shall determine for each user or user class the average daily poundage of five-day 20°C biochemical oxygen demand (BOD) discharged to the wastewater system which shall then be divided by the average daily poundage of all five-day DOD discharged to the wastewater system to determine such user's BOD contribution percentage.

(B) The city shall determine for each user or user class the average daily total suspended solids (TSS) poundage discharged to the wastewater system which shall then be divided by the average daily poundage of all TSS discharged to the wastewater system, to determine such user's TSS contribution percentage. The volume contribution percentage, DOD contribution percentage, and TSS contribution percentage for each user or user class shall be multiplied by the annual operation and maintenance costs for wastewater treatment of the total volume flow, total five-day 20°C BOD, and total TSS respectively.

(Ord. 414, passed 10-7-2002)

§ 52.28 WASTEWATER FACILITIES REPLACEMENT FUND.

(A) A reserve fund called the Wastewater Facilities Replacement Fund is hereby established within the Wastewater Utility Fund for the purpose of providing sufficient funds to be expended for obtaining and installing equipment, accessories, and appurtenances during the useful life (20 years) of the wastewater treatment facilities necessary to maintain the capacity and performance for which such facilities are designed and constructed.

(B) The reserve fund called the Wastewater Facilities Replacement Fund established within the Wastewater Utility Fund as an interest-bearing account shall be funded by a deposit of a minimum of 10% of revenues per year obtained from the Wastewater Utility Fund at the end of each fiscal year.

(Ord. 414, passed 10-7-2002)

§ 52.29 REVIEW OF EACH USER'S WASTEWATER SERVICE CHARGE.

(A) The city shall review the total annual cost of operation and maintenance as well as each user's wastewater contribution percentage not less often than every two years and will revise the system as necessary to assure equity of the service charge system established herein and to assure that sufficient funds are obtained to adequately operate and maintain the wastewater treatment works. The city shall apply excess revenues collected from a class of users to the costs of operation and maintenance attributed to that class for the next year and adjust the rate accordingly.

(B) If a significant user, such as an industry, has completed in-plant modifications which would change regularly scheduled meeting of the governing body, such factual information and the city shall then determine if the user's wastewater contribution percentage is to be changed. The city shall notify the user of its finding as soon as possible.

(Ord. 414, passed 10-7-2002)

§ 52.30 NOTIFICATION.

Each user will be notified, at least annually, in conjunction with a regular bill, of the rate and that portion of the user charges which are attributable to wastewater treatment services.

(Ord. 414, passed 10-7-2002)

§ 52.31 WASTES PROHIBITED FROM BEING DISCHARGED TO THE WASTEWATER TREATMENT SYSTEM.

(A) The discharge of any waters containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to contaminate the sludge of any municipal systems, or to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in or have an adverse effect on the waters receiving any discharge from the treatment works is hereby prohibited.

(B) Each user which discharges any toxic pollutants which cause an increase in the cost of managing the effluent or the sludge of the city treatment works shall pay for such increased costs.

(Ord. 414, passed 10-7-2002) Penalty, see §10.99

§ 52.32 PROHIBITION OF CLEAR WATER CONNECTIONS.

No person shall make connection of roof down spouts, exterior foundation drains, areaway drains, sump pumps, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer. Fines of up to \$100 may be imposed.

(Ord. 414, passed 10-7-2002) Penalty, see §10.99

TITLE VII: TRAFFIC CODE

- 70. DRIVING REGULATIONS
- 71. PARKING REGULATIONS
- 72. TRAFFIC SIGNS AND TRUCK ROUTES
- 73. RECREATIONAL VEHICLES
- 74. TRAFFIC SCHEDULES

CHAPTER 70: DRIVING REGULATIONS

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OPERATION OF VEHICLES

§ 70.001 DEFINITIONS.

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

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

CROSSWALK. The portion of a roadway ordinarily included within the prolongation of curb and property lines at intersections, whether marked or not, or any other portion of a roadway clearly indicated for pedestrian crossing by lines or other markings on the surface of the street.

CURB. The extreme edge, or lateral boundary of a roadway, whether marked by curbing or not.

DEPARTMENT. The Police Department of the City of Webster.

DOUBLE-PARKING. The standing of a vehicle upon a street at the rear of another vehicle which is parked diagonally at the curb, or the standing of a vehicle upon the street alongside and parallel to another vehicle which is parked parallel at the curb.

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

LEFT HAND SIDE OF A STREET. The side to the left of the vehicle as it moves forward.

MOTOR VEHICLE. Every vehicle which is self-propelled.

PARKING. The standing of a vehicle, whether attended or unattended upon a roadway, otherwise then temporarily for the purpose of and while actually engaged in loading or unloading passengers.

PEDESTRIAN. Any person afoot.

PRIVATE ROAD OR DRIVEWAY. Every road or driveway not open to the use of the public vehicular travel.

RIGHT-HAND SIDE OF A STREET. The side to the right of the vehicle as it moves forward.

RIGHT-OF-WAY. The privilege of the immediate use of the street.

ROADWAY. The portion of a street devoted to vehicular traffic.

SEMI-TRAILER. Every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests upon or is carried by another vehicle.

SIDEWALK. The portion of the street between the curb lines and the adjacent property lines.

STREET. Any street, avenue, boulevard, alley, highway, or public place set apart for the public vehicular travel.

STREET INTERSECTION. The portion of a street where it joins another at an angle, whether or not it crosses the other street, and shall include the full width of the street between the curb lines, extended, of the intersection streets.

THROUGH STREETS. Streets, or parts thereof, that have been so designated and marked, by order of the City Council.

TRAILER. Every vehicle without motive power designed for carrying property or passengers wholly on its own structure and for being drawn by a motor vehicle.

VEHICLE. Every device in, upon, or by which any person or property is or may be transported or drawn upon a street; provided, that for the purpose of this title, a bicycle or an animal that is being ridden, driven, or led shall be deemed a **VEHICLE**.

(Prior Code, § 12-1-1)

§ 70.002 DRIVING ON RIGHT SIDE OF STREET.

(A) Upon all streets, except upon one-way streets, the operator of a vehicle shall drive the same upon the right half of the street and shall drive a slow moving vehicle as closely as possible to the right-hand edge or curb of a street unless it is impractical to travel on such side of the street, and except when overtaking and passing another vehicle subject to the limitations applicable in overtaking and passing set forth in this title.

(B) The foregoing provision of this section shall not be deemed to prevent the marking of lanes for traffic upon any street and the allocation of designated lanes to traffic moving in a particular direction or at designated speeds.

(Prior Code, § 12-2-1)

§ 70.003 OVERTAKING AND PASSING.

The driver of any vehicle overtaking another vehicle proceeding in the same direction shall first give audible warning of his or her intention to pass and shall then pass at a safe distance to the left thereof, but only when such left side is clearly visible and free from oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be made in safety and shall not cut in front of overtaken vehicle until safely clear of same, and in no case shall a vehicle pass another vehicle in a street intersection. The driver of a vehicle shall move to the right of the roadway a sufficient distance to allow passing when so signaled from a vehicle behind desiring to pass, and shall not increase the speed of his or her vehicle until completely passed by overtaking vehicle. Vehicles shall not travel two or more abreast on any street.

(Prior Code, § 12-2-2)

§ 70.004 SLOW DRIVING.

No person shall drive any vehicle at any unnecessarily slow rate of speed so as to hinder and retard the traffic.

(Prior Code, § 12-2-3) Penalty, see § 70.999

§ 70.005 FOLLOWING TOO CLOSELY.

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

(Prior Code, § 12-2-4) Penalty, see § 70.999

§ 70.006 VEHICLES SHALL NOT BE DRIVEN ON SIDEWALKS.

(A) The operator of a vehicle shall not drive on or within any sidewalk area, except as a permanent or temporary driveway.

(B) A vehicle shall not be allowed to cross a sidewalk except where a driveway has been provided. In crossing a sidewalk to or from an alley, lot, or building, no vehicle shall be driven at a speed greater than four mph.

(C) Every person driving any vehicle to or from any alley, lot, private driveway, or building across any sidewalk shall give ample notice and warning of his or her approach; and in the business district, shall come to a full stop before crossing the sidewalk.

(Prior Code, § 12-2-5)

§ 70.007 OPERATION OF VEHICLES ON APPROACH OF AUTHORIZED EMERGENCY VEHICLE.

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

(Prior Code, § 12-2-6)

§ 70.008 FOLLOWING ANY AUTHORIZED EMERGENCY VEHICLE PROHIBITED.

It shall be unlawful for any driver of any vehicle other than one on official business to follow any authorized emergency vehicle traveling in response to a fire alarm closer than 500 feet or to drive or park such vehicle within 350 feet of the place where any fire apparatus has stopped or may be located in answer to a fire alarm.

(Prior Code, § 12-2-7) Penalty, see § 70.999

§ 70.009 BRAKES, BELL, HORN, AND LIGHTS.

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

(Prior Code, § 12-2-8)

§ 70.010 LICENSE PLATES.

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

(Prior Code, § 12-2-9) Penalty, see § 70.999

§ 70.011 DRIVER'S PERMIT REQUIRED.

It shall be unlawful for any person who is a resident of the state to drive or operate upon any of the streets or roadways within the city any motor vehicle without first having secured and having in his or her possession a permit to do so issued by the state under the provisions of SDCL Chapter 32-12, and any acts amendatory thereto.

(Prior Code, § 12-2-10) Penalty, see § 70.999

§ 70.012 MOTOR VEHICLES LEFT UNATTENDED, BRAKES TO BE SET.

No person driving or in charge of a motor vehicle shall allow such vehicle to stand on any street unattended without first setting the brakes thereon when standing upon any grade, turning the front wheel to the curb or side of the roadway.

(Prior Code, § 12-2-11) Penalty, see § 70.999

§ 70.013 UNLAWFUL TO DRIVE THROUGH PROCESSIONS UNLESS DIRECTED BY POLICE OFFICER.

It shall be unlawful for the operator of any vehicle to drive between the vehicles comprising a funeral or other authorized procession while they are in motion. This provision shall not apply to intersections where traffic is controlled by police officers.

(Prior Code, § 12-2-12) Penalty, see § 70.999

§ 70.014 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.

(Prior Code, § 12-2-13) Penalty, see § 70.999

§ 70.015 DRIVER'S VIEW OF CONTROL.

No person shall drive a motor vehicle when there are more than three persons in the front seat thereof, or when such motor vehicle is so loaded as to obstruct the view of the driver to the front or sides of said vehicle, or so as to interfere with the driver's control over the mechanism of the vehicle.

(Prior Code, § 12-2-14) Penalty, see § 70.999

§ 70.016 CROSSING FIRE HOSE.

No vehicle shall be driven over any unprotected hose of the Fire Department when laid down on any street or private driveway to be used at any fire or alarm of fire without the consent of the Fire Chief or Fire Department official in command.

(Prior Code, § 12-2-15) Penalty, see § 70.999

§ 70.017 CARELESS DRIVING.

Any person who drives any vehicle upon a street, alley, or public place carelessly and heedlessly in disregard of the rights and safety of others, or without due caution and circumspection 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 careless driving.

(Prior Code, § 12-2-16) Penalty, see § 70.999

§ 70.018 DRIVING UNDER THE INFLUENCE OF DRUGS OR ALCOHOL.

SDCL Chapter 32-23 shall govern any provisions pertaining to driving or being in control of a vehicle while under the influence of alcohol or any controlled substance or drug.

(Prior Code, § 12-2-17)

§ 70.019 CLINGING TO MOTOR VEHICLES.

No person traveling upon any bicycle, coaster, sled, skis, roller skates, or any other toy vehicle shall cling to or attach himself or herself or his or her vehicle to any other moving vehicle upon any street.

(Prior Code, § 12-2-18) Penalty, see § 70.999

§ 70.020 RIDING ON OUTSIDE OF VEHICLE.

No person shall ride upon the running board or fenders of any motor vehicle in motion and no person driving a motor vehicle shall allow any person to ride upon the running board, fenders, or outside of any such vehicle he or she is driving while same is in motion.

(Prior Code, § 12-2-19) Penalty, see § 70.999

§ 70.021 BOARDING OR ALIGHTING FROM VEHICLE IN MOTION.

No person shall board or alight from any vehicle while same is in motion.

(Prior Code, § 12-2-20) Penalty, see § 70.999

§ 70.022 KEEP TO THE RIGHT IN CROSSING INTERSECTIONS.

In crossing an intersection of highways, except upon a one-way street, the driver of a vehicle shall at all times cause such vehicle to travel on the right half of the highway unless such right half is obstructed or impassable.

(Prior Code, § 12-2-21)

§ 70.023 MEETING OF VEHICLES.

Operators of vehicles proceeding in opposite directions shall pass each other to the right. Each giving to the other at least one-half of the main traveled portion of the roadway as nearly as possible.

(Prior Code, § 12-2-22)

§ 70.024 DRIVING ON ROADWAYS LANED FOR TRAFFIC.

(A) Whenever any roadway has been divided into two or more clearly marked lanes for traffic, the following rules in addition to all others consistent herewith shall apply.

(B) A vehicle shall be driven as nearly as practical entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety.

(C) Official signs may be erected directing slow moving traffic to use a designated lane or designate those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway and drivers of vehicles shall obey the directions of every such sign.

(Prior Code, § 12-2-23)

§ 70.025 DRIVING ON DIVIDED HIGHWAYS.

Whenever any highway has been divided into two roadways by leaving an intervening space or by a physical barrier or clearly indicated dividing section so constructed as to impede vehicular traffic, every vehicle shall be driven only upon the right-hand roadway and no vehicle shall be driven over, across, or with any such dividing space, barrier, or section, except through an opening in such physical barrier or dividing section or space or at a crossover or intersection established by public authority.

(Prior Code, § 12-2-24)

§ 70.026 RIGHT-OF-WAY.

Subject to the exceptions stated in §70.027, the right-of-way rule as between vehicles at intersections is hereby declared as follows.

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

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

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

(Prior Code, § 12-2-25) Penalty, see § 70.999

§ 70.027 EXCEPTIONS TO RIGHT-OF-WAY.

(A) The operator of a vehicle entering a public street shall yield the right-of-way to authorized emergency vehicles when the latter are operated upon official business and the operators thereof sound audible signal by bell, siren, or exhaust whistle.

(B) This provision shall not relieve the operator of an emergency vehicle from the duty to drive with due regard for the safety of all persons using the street, nor shall it protect the operator of any such vehicle from the consequences of an arbitrary exercise of such right-of-way.

(Prior Code, § 12-2-26)

§ 70.028 STOPPING PROHIBITED IN SPECIFIED PLACES.

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

(A) Within an intersection;

(B) On a crosswalk;

(C) Within 15 feet of inside boundary line of the sidewalk, or if no sidewalk is in place, within 25 feet of the intersecting roadway, except that this provision shall not apply to alleys;

(D) Within 15 feet of the driveway entrance to any fire station, or directly across the street from such entrance;

(E) Within 15 feet of a fire hydrant;

(F) In front of a private driveway;

(G) On a sidewalk;

(H) Alongside or opposite any street excavation or obstruction when such stopping, standing, or parking would obstruct traffic; and

(I) Parking against direction of traffic on through streets.

(Prior Code, § 12-2-27) Penalty, see § 70.999

§ 70.029 STANDING FOR LOADING OR UNLOADING ONLY IN CERTAIN PLACES.

(A) It shall be unlawful for the operator of a vehicle to stop, stand, or park said vehicle for a period of time longer than necessary for the actual loading or unloading of passengers in any place marked as a passenger or loading zone.

(B) It shall be unlawful for the operator of a vehicle to stop, stand, or park said vehicle for a period of time longer than is necessary for the actual loading or unloading of passengers, or for the unloading and delivery or pick up and loading of materials in any place marked as loading zone.

(C) The City Council shall have authority to determine the location of passenger zones and loading zones as described herein, and shall cause to be erected and maintained appropriate signs indicating the same.

(Prior Code, § 12-2-28) Penalty, see § 70.999

§ 70.030 EMERGING FROM ALLEY OR PRIVATE DRIVEWAY.

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

(Prior Code, § 12-2-29)

§ 70.031 STOP BEFORE ENTERING THROUGH STREET.

Every operator of a vehicle or other conveyance traversing any street intersecting any through street, as designated and marked by order of City Council, shall bring such vehicle or conveyance to a full stop at the place within 15 feet where such street meets the prolongation of the nearest property line of such through street, subject, however, to the direction of any traffic-control signs or signals or any law enforcement officer at such intersection. The vehicle entering a through roadway (where there is a stop sign) must yield the right-of-way to all vehicles which are either within the intersection, or so close thereto as to constitute an immediate hazard.

(Prior Code, § 12-2-30)

§ 70.032 TURNING AT INTERSECTIONS.

(A) *Right turns.* The operator of a vehicle intending to turn to the right at an intersection or into an alley or driveway shall approach the point of turning in the line of traffic nearest the right-hand edge or curb of the street, and in turning shall keep as closely as practicable to the right-hand edge or curb of the street.

(B) *Turning left.* The operator of a vehicle intending to turn to the left at an intersection or into a driveway shall approach the point of turning in the lane of traffic to the right of and next to the center of the roadway; and unless otherwise directed by "turning marker" the operator of a vehicle in turning left at an intersection shall pass to the right of the center of the intersection before turning.

(C) *Turning markers.* The Chief of Police is hereby authorized to place turning markers within or at the entrance to the intersections directing that traffic turning left shall follow a line to travel other than directed in division (B) above. Whenever turning markers have been placed as herein provided, traffic turning left shall follow the line as directed by such marker.

(D) *Turning left on "go" signals.* The driver of a vehicle intending to turn to the left at an intersection where traffic is controlled by traffic-control signals or by a police officer, shall proceed to make such left turn with proper care to avoid accident and only upon the "green" or "go" signal, unless otherwise directed by a police officer.

(E) *Turning right on "stop" signals.* The driver of any vehicle which is stopped as close as practicable at the entrance to the crosswalk and to the far right side of the roadway, then at the entrance to the intersection in obedience to a "red" or "stop" signal, may make right turn but shall yield the right-of-way to any pedestrian and other traffic proceeding as directed by the signal at the intersection. This provision permitting a right turn after a stop when facing a steady red light alone or "stop" signal shall not be effective if the City Council prohibits such turn and if a sign is erected at such intersection giving

notice thereof.

(Prior Code, § 12-2-31)

§ 70.033 TURNING AROUND AT INTERSECTIONS PROHIBITED.

At any intersection where traffic is controlled by traffic-control signals or by a law enforcement officer, or where warned by an official traffic-control sign displaying the words "No U Turn" or "No Left Turn", it shall be unlawful for the operator of a vehicle to turn such vehicle at the intersection in a complete circle, or so as to proceed in the opposite direction or to make a left turn.

(Prior Code, § 12-2-32) Penalty, see § 70.999

§ 70.034 TURNING AROUND IN MID-BLOCK PROHIBITED.

The operator of a vehicle shall not turn such a vehicle so as to proceed in the opposite direction except at an intersection.

(Prior Code, § 12-2-33) Penalty, see § 70.999

§ 70.035 TURNING MOVEMENTS AND REQUIRED SIGNALS.

(A) No person shall turn a vehicle at an intersection unless the vehicle is in proper position upon the roadway as required in § 70.033, or turn a vehicle to enter a private road or driveway or otherwise turn a vehicle from a direct course or move it 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 thereafter provided in the event any other traffic may be affected by such movement.

(B) A signal of intention to turn right or left when required shall be given continuously during not less than the last 100 feet traveled by the vehicle before turning.

(C) 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. The signal provided herein shall be used to indicate an intention to turn, change lanes, or stop and shall not be flashed on one side only on a parked or disabled vehicle or flashed as a courtesy or "do pass" signal to operators of other vehicles approaching from the rear.

(Prior Code, § 12-2-34) Penalty, see § 70.999

§ 70.036 SIGNALS BY HAND AND ARM OR SIGNAL DEVICE.

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

(Prior Code, § 12-2-35)

§ 70.037 METHOD OF GIVING HAND AND ARM SIGNALS.

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

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

(Prior Code, § 12-2-36)

§ 70.038 RESTRICTIONS ON U TURNS.

No vehicle shall be turned so as to proceed in the opposite direction within any intersect in or designated no-passing zone in the city, nor may any such turning movement be otherwise made elsewhere in the city.

(Prior Code, § 12-2-37) Penalty, see § 70.999

§ 70.039 EXHIBITION DRIVING.

Any person who drives a vehicle within the city limits and in such manner that creates or causes unnecessary engine noise, tire squeal, skid, or slide upon acceleration or stopping or that stimulates a temporary race; or that causes the vehicle to unnecessarily turn abruptly or sway shall be guilty of exhibition driving.

(Prior Code, § 12-2-38) Penalty, see § 70.999

§ 70.040 PROHIBIT USE OF DYNAMIC BRAKING DEVICES.

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

(Prior Code, § 12-2-39) Penalty, see § 70.999

ADDITIONAL REGULATIONS

§ 70.055 ACCIDENT; DUTY TO STOP.

The driver of any vehicle involved in any accident resulting in injury or death to any person or damage to property shall immediately stop and give his or her name and address, and the name and address of the owner, and the license number of the vehicle he or she is driving to the person struck or the driver or occupants of any vehicle collided with and shall render to any person injured in such accident reasonable assistance, including the carrying of such person to a physician or surgeon for medical treatment if it is apparent that such treatment is necessary or is requested by the injured person.

(Prior Code, § 12-7-1)

§ 70.056 DUTY TO GIVE IMMEDIATE NOTICE OF ACCIDENT.

The driver of any motor vehicle involved in an accident resulting in bodily injuries or death to any person or property damage as required by state law shall immediately by the quickest means of communication give notice of such accident to the Police Department.

(Prior Code, § 12-7-2)

§ 70.057 DUTY UPON STRIKING ANIMAL.

The driver of any vehicle which collides with any dog or domestic animal causing injury thereto shall stop and attempt to notify the owner; if the owner cannot be notified at once, the driver shall report the accident to the Police Department in order that the injured animal may be properly cared for.

(Prior Code, § 12-7-3)

§ 70.058 DUTY UPON STRIKING UNATTENDED VEHICLE.

The driver of any vehicle which collides with or is involved in an accident with any vehicle or other property which is unattended resulting in any damage to such other vehicle or property shall immediately stop and shall then and there either locate and notify the operator or owner of such vehicle or other property of his or her name, address and the name and address of the owner, and the license number of the vehicle he or she is driving or shall attach securely in a conspicuous place in or on such vehicle or other property a written notice giving his or her name, address and the name and address of the owner, and the license number of the vehicle he or she is driving and shall without unnecessary delay notify the Police Department. Every such stop shall be made without obstructing traffic more than is necessary.

(Prior Code, § 12-7-4)

§ 70.059 REPAIR OF VEHICLE WITH REPORTABLE DAMAGE PROHIBITED UNLESS REQUIRED NOTICE AFFIXED.

The person in charge of any garage or repair shop shall not commence repair on any motor vehicle which shows evidence of having been involved in a reportable accident or struck by any bullet unless the vehicle bears the notice provided by the state's Public Safety Department.

(Prior Code, § 12-7-5)

§ 70.060 INTERFERING WITH TRAFFIC.

(A) No vehicle shall be parked or left standing on any street so as to interfere with or interrupt the traffic on said street.

(B) Disabled vehicles are excepted from this but only for such reasonable period of time as may be required to remove the disabled vehicle from its position of interference.

(Prior Code, § 12-7-7) Penalty, see § 70.999

§ 70.061 WEIGHT AND SIZE OF VEHICLE AND LOADS.

No person shall drive or operate any vehicle upon any street, the gross weight of which, including the load, or the size of which does not comply with the requirements of the state law governing such vehicle.

(Prior Code, § 12-7-8) Penalty, see § 70.999

§ 70.062 BRAKES AND SIGNALING DEVICES.

(A) Every motor vehicle, trailer, semi-trailer, pole trailer, and any combination of such vehicles shall be equipped with brakes in compliance with the requirement of SDCL Chapter 32-18 or revision thereof.

(B) Every motor vehicle shall be equipped with a horn in good working order capable of emitting sound audible under normal conditions from a distance of at least 200 feet.

(Prior Code, § 12-7-9)

§ 70.063 LIGHTS.

A motor vehicle upon a highway within the state during the period from a half hour after sunset to a half hour before sunrise and at any other time when there is not sufficient light to render clearly discernible any person on the highway at a distance of 200 feet shall be equipped with at least two lighted lamps on the front and two on the rear of such motor vehicle, such lamps to conform to state law, SDCL Chapter 32-17, provided that a motorcycle or motor bicycle shall be required to display but one lighted lamp in front and one in the rear.

(Prior Code, § 12-7-10)

§ 70.064 HEADLIGHTS DIMMED.

No person shall use headlights or side lights upon any vehicle on any street unless the same are dimmed in such a way as to prevent the light being dazzling or blinding to persons using the street.

(Prior Code, § 12-7-11) Penalty, see § 70.999

§ 70.065 SPOT LIGHTS.

No person shall use a spotlight in the streets unless in an emergency, and then so as not to blind or inconvenience persons using the street.

(Prior Code, § 12-7-12) Penalty, see § 70.999

§ 70.066 PLAY STREETS.

The Council may declare any street or part thereof as "Play Street", and place appropriate signs or devices in the roadway indicating such use.

(Prior Code, § 12-7-13)

§ 70.067 MUFFLER, EXCESSIVE SMOKE, AND NOISE.

No person shall operate or drive any motor vehicle unless such motor vehicle is equipped with a muffler in good working order and in consistent operation to prevent excessive or unusual noise and annoying smoke. No person shall operate a motor vehicle in such manner as to emit unnecessary or excessive smoke or noise from the motor of such vehicle or to needlessly sound the horn or other noise-making device.

(Prior Code, § 12-7-14) Penalty, see § 70.999

§ 70.068 PROHIBITING THE USE OF "SMITTY" OR "HOLLYWOOD" MUFFLERS.

The use of "Smitty" or "Hollywood" mufflers or other devices of a like character which make loud noises or explosions are hereby declared unlawful. It shall be unlawful to use a "muffler cutout" on any motor vehicle on any street or roadway in the city.

(Prior Code, § 12-7-15) Penalty, see § 70.999

§ 70.069 VEHICLES WITH LUGS PROHIBITED.

No person shall operate or move any tractor or vehicle equipped with mud lugs, ice spurs, or spikes upon or across any street that is surfaced with portland cement concrete or surfaced with bituminous material or any other hard surfacing material without first laying planks at least two inches in thickness over the surface of such street in a manner so as to protect such street surface from any damage.

(Prior Code, § 12-7-16) Penalty, see § 70.999

§ 70.070 PNEUMATIC TIRES WITH METAL STUDS PERMITTED.

It shall be lawful to operate, upon the streets of the city, motor vehicles equipped with pneumatic tires in which there are embedded metal studs or wires of tungsten or other similar metal.

(Prior Code, § 12-7-17) Penalty, see § 70.999

§ 70.071 VEHICLES PROHIBITED ON CLOSED STREETS.

No vehicle shall be driven upon any street that has been closed to traffic by the proper authority.

(Prior Code, § 12-7-18) Penalty, see § 70.999

§ 70.072 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 charged with violation of a traffic ordinance of the city by a police officer need not be arrested in the regular manner but may first be given an opportunity, after notice, to appear voluntarily to answer for such traffic violation.

(Prior Code, § 12-7-19)

§ 70.073 NOTICE TO APPEAR.

A person charged with violation of a traffic ordinance shall be given a notice to appear before the Circuit Court Magistrate or the County Clerk of Courts at the time stated in such notice, which shall be written within seven days from the time of the offense; and that in event of failure to do so, a warrant will be issued for his or her arrest. The notice shall state the name and address of the offender, if known; the license number and make of the vehicle involved in the violation; the nature, date, and location of the offense; and the time and place where the offender is to appear to answer to the charges. The notice shall be made in duplicate and the portion of the original stating the offense and the place and time to appear shall be given to the owner or driver charged with the offense or left in or upon the vehicle involved in the violation.

(Prior Code, § 12-7-20)

§ 70.074 APPEARANCE AND DEPOSIT FOR FINE.

A person who has received a notice of traffic violation as provided in §70.073 shall appear at the time and place specified in such notice. In cases of parking violations and other minor traffic violations for which the person charged has been ordered to appear before the Circuit Court Magistrate or County Clerk of Courts, he or she may make a deposit for the fine as authorized by the Court and sign a statement authorizing a Circuit Court Magistrate or County Clerk of Courts to enter his or her plea of guilty to the offense, then he or she shall not be required to appear in Court. Any person who has been guilty of three or more violations of the provisions of the traffic ordinances of this city shall not be permitted to deposit the fine as hereinabove authorized, but must post a bond for his or her appearance in Court at the time specified by the Department, said bond to be in an amount set by the City Council and on file at the office of the Finance Officer.

(Prior Code, § 12-7-21)

§ 70.075 FAILURE TO APPEAR.

Upon failure of a person to appear in response to a notice of traffic violation as herein provided, he or she shall be subject to arrest in the manner otherwise provided by law.

(Prior Code, § 12-7-22)

§ 70.076 EVIDENCE OF TRAFFIC VIOLATIONS.

In any proceeding for violations of the provisions of this title relating to the operation or parking of motor vehicles, the registration plate displayed on such motor vehicle shall constitute in evidence a prima facie presumption that the owner of such vehicle was the person who was operating or parking such motor vehicle at the time when such violation occurred or who parked such motor vehicle at the point where such violation occurred.

(Prior Code, § 12-7-23)

§ 70.077 STORAGE OF FIREWOOD, CORN, OR THE LIKE USED FOR HEATING PURPOSES.

It is hereby declared to be unlawful for any individual, firm, or entity to store firewood, corn, or other like substance used for heating purposes on the premises except in conformance with the following.

(A) No more than eight cords of firewood shall be stored at any time, without the prior approval of the City Council. For purposes of this section, a **CORD OF WOOD** means a unit of quantity for cut wood, equal to 128 cubic feet in a stack measuring four feet by four feet by eight feet.

(B) All wood must be cut into lengths of approximately one to two feet and require no further cutting of the wood prior to placing it in a wood burner or fireplace. The wood must be neatly stacked. Such wood shall not be stacked closer than five feet to any property line and not higher than six feet from grade.

(C) However, firewood may be stacked on or near the lot line or against a fence, provided that it is no higher than the fence and that it is located a minimum of six feet from any structure on adjacent property.

(D) All brush, debris, and refuse from processing of firewood shall be promptly removed from the premises.

(E) Any corn stored for a corn-burning stove shall be stored in a container so as to prevent rodents or other animals from getting to the material and in such a manner so as not to create a public nuisance.

(Prior Code, § 12-7-24) Penalty, see § 70.999

PEDESTRIANS

§ 70.090 PEDESTRIAN'S RIGHT-OF-WAY.

(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 at the end of a block, except at intersections where the movement of traffic is being regulated by police 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.

(C) It shall be unlawful for a pedestrian to cross a roadway at any point other than within a marked or unmarked crosswalk.

(Prior Code, § 12-4-1) Penalty, see § 70.999

§ 70.091 PEDESTRIAN'S RIGHTS AND DUTIES AT CONTROLLED INTERSECTIONS.

At intersections where traffic is controlled by a police officer, a pedestrian shall yield the right-of-way to vehicles lawfully proceeding directly ahead on a "Go" signal, and the driver of a vehicle while making a right or left shall yield the right-of-way to pedestrians proceeding across the street on the "Go" signal. It shall be unlawful for a pedestrian to cross or attempt to cross a street when the traffic is stopped.

(Prior Code, § 12-4-2) Penalty, see § 70.999

§ 70.092 PEDESTRIANS TO USE RIGHT HALF OF CROSSWALK.

Pedestrians shall move, whenever practicable, upon the right half of crosswalks.

(Prior Code, § 12-4-3)

§ 70.093 PEDESTRIANS SOLICITING RIDES.

It shall be unlawful for any person to stand in a roadway for the purpose of soliciting a ride from the operator of any private vehicle.

(Prior Code, § 12-4-4) Penalty, see § 70.999

ENFORCEMENT OF REGULATIONS

§ 70.105 ENFORCEMENT DUTIES.

(A) It shall be the duty of the Chief of the Police Department office to enforce all the regulations and requirements of this title.

(B) Whenever any police officer shall find a vehicle standing or parked upon any street, as defined in this chapter, in the city, in violation of any of the provisions of this title, he or she is hereby authorized to move such vehicle to a position and location permitted under the sections of this title relating to the parked vehicles.

(Prior Code, § 12-1-2)

§ 70.106 POLICE TO DIRECT TRAFFIC.

Police officers shall direct all traffic in conformance with traffic laws and ordinances, provided that in the event of a fire or other emergency, or to expedite traffic or safeguard pedestrians, members of the Police or Fire Department may direct traffic as conditions may require.

(Prior Code, § 12-1-3)

§ 70.107 OBEDIENCE TO POLICE.

It shall be unlawful for any person to refuse or fail to comply with any lawful order, signal, or direction of the Police Department.

(Prior Code, § 12-1-4) Penalty, see § 70.999

§ 70.108 AUTHORITY OF POLICE DEPARTMENT TO ADOPT REGULATIONS.

The Chief of Police, with the approval of the Council, is hereby empowered to make and enforce regulations necessary to make effective the provisions of this title and to make temporary regulations to cover emergencies or special conditions, provided any such regulations are not inconsistent with the provisions of this title.

(Prior Code, § 12-1-5)

§ 70.109 PUBLIC EMPLOYEES TO OBEY TRAFFIC REGULATIONS.

(A) The provisions of this title shall apply to the operator of any vehicle owned or used in the service of the U.S. government, this state, county, or city; and it shall be unlawful for any such operator to violate any of the provisions of this title, except as otherwise permitted in this title.

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

(Prior Code, § 12-1-6) Penalty, see § 70.999

§ 70.999 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Except as otherwise specifically provided, any person violating any of the provisions of §§70.001 to 70.040 shall be punishable by a fine as set in §§ 70.001 to 70.040.

(Prior Code, § 12-2-40)

(C) A violation of § 70.077 shall result in a fine of \$25 per day until said violation is abated.

(Prior Code, § 12-7-24)

(D) Except in cases where a different or additional penalty is imposed by this title or by some existing provision of law, every violation of any of the provisions of this chapter shall be punishable by a fine not exceeding \$200 or by imprisonment for a period not exceeding 30 days or by both such fine and imprisonment.

(Prior Code, § 13-1-1)

Statutory reference:

Related provisions, see SDCL 9-19-3

CHAPTER 71: PARKING REGULATIONS

Section

- 71.01 Limited parking
- 71.02 Emergency limited parking
- 71.03 Non-parking areas
- 71.04 Spaces reserved for police cars, disabled parking, and the like
- 71.05 Parallel and diagonal parking
- 71.06 Prohibited vehicles
- 71.07 Backing to curb
- 71.08 Double parking
- 71.09 Parking in alleys
- 71.10 Parking on crosswalks
- 71.11 Stopping near curb
- 71.12 Parking near fire hydrant or fire station
- 71.13 Parking in private driveway
- 71.14 Parking in traffic to converse
- 71.15 Vehicle may be removed

- 71.99 Penalty

§ 71.01 LIMITED PARKING.

(A) The City Council may from time to time by resolution establish or cause to be designated and marked streets or parts thereof where vehicles may be parked for limited time periods only. The driver or person in charge of any vehicle parked in such a limited time zone shall comply with such time limit for parking as shown on the signs, or marked on the curb, in the immediate vicinity in which such vehicle is parked.

(B) Whenever a notice is left by any member of the Police Department in or on any vehicle which has exceeded the

parking time limit, requesting the person in charge of such vehicle to report to the police station or municipal court, said person shall appear at the hour and place designated, and default in so doing shall in itself be deemed a violation of this chapter.

(Prior Code, § 12-3-1)

§ 71.02 EMERGENCY LIMITED PARKING.

(A) No motor vehicle or other vehicle of any kind shall be parked or remain upon any street or avenue in this city during any time when members of the Street Department of said city are working or preparing to work in any manner in connection with the cleaning, repairing, surfacing, or removal of snow from such street or avenue, or any part thereof. No motor vehicle or other vehicle of any kind shall be parked or remain upon any street or avenue in this city during a snow emergency (when members of the Street Department of said city are working in any manner in connection with removal of snow or ice from such street, avenue, or alley). Snow emergencies (by city Street Department) will be made available to the public using public notification systems, including the county alert system.

(B) (1) No motor vehicle or other vehicle shall be parked or remain upon any street or avenue, right-of-way, or boulevard in any one location within the limits of this city for a period of time exceeding 24 consecutive hours.

(2) No trailers (boats, construction, fish houses, and the like) or construction equipment (lifts, dump trucks, bobcats, and the like) of any kind shall be parked or remain upon any street or avenue in this city during the winter months (December - April) overnight.

(C) No semi-trailer, tractor, straight truck, or bus shall be parked on any street, boulevard, alley, or public place in a residential district for a period in excess of one hour. Such restrictions shall not apply to trucks loading or unloading cargo, which may be parked on streets or alleys long enough to complete their loading or unloading operations, nor to any machinery or equipment in use on any repair, maintenance, or construction project in progress on any street, alley, boulevard, or public place.

(D) Any automobile, or vehicle of any kind, trailers, boats, construction equipment, fish houses, and the like parked in violation of this section may be removed by the city, and the owner thereof, in addition to the other penalties prescribed, shall be required to pay the cost of such removal.

(Prior Code, § 12-3-2) (Ord. 517, passed 11-4-2019) Penalty, see §71.99

§ 71.03 NON-PARKING AREAS.

The City Council may from time to time, by resolution, establish and cause to be designated and marked non-parking areas, along street curbs. No vehicle shall be parked at any time or for any period except to load or unload passengers or merchandise in such places so designated and marked.

(Prior Code, § 12-3-3)

§ 71.04 SPACES RESERVED FOR POLICE CARS, DISABLED PARKING, AND THE LIKE.

The City Council may from time to time, by resolution, establish and cause to be designated and marked, by suitable signs or otherwise, space for the exclusive use, day and night, of police cars, busses, and such other vehicles as they may deem entitled to such privilege. After a space has been so designated and marked, it shall be unlawful for any other vehicle to park within such space day or night except momentarily to take on or let off passengers.

(Prior Code, § 12-3-4) Penalty, see § 71.99

§ 71.05 PARALLEL AND DIAGONAL PARKING.

Vehicles shall park in either a parallel or diagonal manner, according to the signs and paint demarcations in the parking area. Parallel parking shall be done so that the vehicle is parallel to the curb headed in the direction of traffic, for that side of the street and not closer than four feet to any other vehicle, front or rear, and the front and rear wheels on the right side of such vehicle not be more than 18 inches from the curb. Diagonal parking shall be done so that the vehicle shall be parked at an angle with curb approximately 45 degrees with the right front wheel touching or within 12 inches of the curb.

(Prior Code, § 12-3-5)

§ 71.06 PROHIBITED VEHICLES.

No vehicles of more than 18 feet in length or seven feet in width, or with a load exceeding such length or width shall be parked upon any street which has been designated for diagonal parking.

(Prior Code, § 12-3-6) Penalty, see § 71.99

§ 71.07 BACKING TO CURB.

No vehicle shall be backed to the curb or be left standing backed to the curb except where it is necessary in order to load and unload goods or merchandise and then only for such length of time as may be necessary to load or unload.

(Prior Code, § 12-3-7) Penalty, see § 71.99

§ 71.08 DOUBLE PARKING.

No vehicle shall be double parked on any street unless said vehicle is in charge of some person able to drive same, and it shall be the duty of such person to at once move the same upon the request of any law enforcement officer or driver of any vehicle which is blocked by such double parked vehicle.

(Prior Code, § 12-3-8) Penalty, see § 71.99

§ 71.09 PARKING IN ALLEYS.

No vehicle shall be parked in any alley except for the purpose of loading, unloading, and delivery of merchandise; and in such cases, the vehicle shall be parked so as not to block the alley for traffic and shall not be so parked for a longer time than 30 minutes at one location.

(Prior Code, § 12-3-9) Penalty, see § 71.99

§ 71.10 PARKING ON CROSSWALKS.

No vehicle shall be parked or left standing on any crosswalk, except momentarily for the purpose of taking on or letting off passengers.

(Prior Code, § 12-3-10) Penalty, see § 71.99

§ 71.11 STOPPING NEAR CURB.

No vehicle shall stop or be allowed to stand anywhere in the streets except as near as possible to the right-hand curb.

(Prior Code, § 12-3-11) Penalty, see § 71.99

§ 71.12 PARKING NEAR FIRE HYDRANT OR FIRE STATION.

No person shall stop or park any vehicle within 15 feet of a fire hydrant or within 15 feet of the driveway entrance to a fire station.

(Prior Code, § 12-3-12) Penalty, see § 71.99

§ 71.13 PARKING IN PRIVATE DRIVEWAY.

No persons shall stop or park a vehicle so as to block any private driveway.

(Prior Code, § 12-3-13) Penalty, see § 71.99

§ 71.14 PARKING IN TRAFFIC TO CONVERSE.

No person or persons shall park or stop any vehicle in any lane of traffic for the purpose of talking with any pedestrians or with a person or persons of another vehicle.

(Prior Code, § 12-3-14) Penalty, see § 71.99

§ 71.15 VEHICLE MAY BE REMOVED.

Any motor vehicle or other vehicle which is in any such street or avenue contrary to the above provisions hereof may be removed from such street or avenue by any member of the Street Department of said city, or any person requested by such member of said Street Department to remove said motor vehicle or other vehicle. The cost of removal shall be taxed against the owner of such motor vehicle or other vehicle as long as reasonable care is used in the moving of such motor vehicle or other vehicle. Neither said city or any other person shall have any liability for any damage which may be done to any motor vehicle or other vehicle so moved.

(Prior Code, § 12-3-15)

§ 71.99 PENALTY.

Any person violating any of the provisions of this chapter shall be deemed guilty of a Class 2 misdemeanor. Each day such violation is committed or is permitted to continue shall constitute a separate offense and shall be punished as such. A fine will be imposed as filed in the Finance Office.

(Prior Code, § 12-3-16)

CHAPTER 72: TRAFFIC SIGNS AND TRUCK ROUTES

Section

Traffic Signs and Signals

- 72.01 Traffic signs and signals
- 72.02 Obedience to traffic signs and signals
- 72.03 Interference with signs or signals prohibited
- 72.04 Display of unauthorized signs and signals prohibited
- 72.05 Council authorized to designate crosswalk
- 72.06 Definitions
- 72.07 Eligible destinations
- 72.08 Destination criteria
- 72.09 Sign construction
- 72.10 Sign location
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Truck Routes

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- 72.27 Through truck route established
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- 72.29 Load limits
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- 72.31 Enforcement of truck routes

TRAFFIC SIGNS AND SIGNALS

§ 72.01 TRAFFIC SIGNS AND SIGNALS.

(A) The City Council shall by resolution determine and designate the character or type of all official traffic signs and signals, provided that all traffic signs and signals erected and in operation are hereby designated official traffic signs and signals.

(B) Subject to this selection, the Chief of Police is hereby authorized, and as to those signs and signals required hereunder, it shall be his or her duty to place and maintain or cause to be placed and maintained all official traffic signs and signals.

(C) All signs and signals required hereunder for a particular purpose shall be approved by the City Council, and as far as practicable, standard throughout the city.

(D) No provisions in this title for which signs are required shall be enforceable against an alleged violator if at the time and place of the alleged violation, the sign herein required is not in proper position and sufficiently legible to be seen by an ordinarily observant person.

(Prior Code, § 12-6-1)

§ 72.02 OBEDIENCE TO TRAFFIC SIGNS AND SIGNALS.

(A) It shall be unlawful for any operator to disobey the instructions of any official traffic sign or signal upon the street placed in accordance with the provisions of this title, unless otherwise directed by a law enforcement officer.

(B) Failure to obey any official traffic sign will result in a citation in the amount of the current state fine for such violation.

(Prior Code, § 12-6-2) Penalty, see § 10.99

§ 72.03 INTERFERENCE WITH SIGNS OR SIGNALS PROHIBITED.

It shall be unlawful for any person willfully to deface, injure, move, obstruct, or interfere with an official traffic sign or signal.

(Prior Code, § 12-6-3) Penalty, see § 10.99

§ 72.04 DISPLAY OF UNAUTHORIZED SIGNS AND SIGNALS PROHIBITED.

(A) It shall be unlawful for any person to place or maintain or to display upon or in view of any street any unofficial sign, signal, or device which purports to be or is an imitation of or resembles an official traffic sign or signal, or which attempts to direct the movement of traffic.

(B) Every such prohibited sign, signal, or device is hereby declared to be a public nuisance, and the Chief of Police is hereby empowered to remove the same, or cause it to be removed without notice.

(Prior Code, § 12-6-4) Penalty, see § 10.99

§ 72.05 COUNCIL AUTHORIZED TO DESIGNATE CROSSWALK.

The City Council may by resolution establish safety zones of such kind and character and at such places as it may deem necessary for the protection of pedestrians and may mark lanes for traffic on street pavements at such places as it may deem advisable consistent with the provisions of this title; and that space being so designated, it shall be the duty of the Chief of Police to mark such zones and lanes in accordance with such resolution.

(Prior Code, § 12-6-5)

§ 72.06 DEFINITIONS.

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

MUTCD. The *Manual on Uniform Traffic-Control Devices for Streets and Highways*, published by the Federal Highway Administration.

WAYFINDING PLAN. This shall include the wayfinding and/or directional signage plans approved by the City Council, and any amendments, subsequent versions, and/or additional plans approved by the City Council.

WAYFINDING SIGN. An off-premise guide sign that is part of a city-coordinated and continuous system of signs meant to direct vehicular and pedestrian traffic to key cultural, civic, visitor, and recreational attractions.

(Prior Code, § 12-6-6.1) (Ord. 499, passed 10-3-2016)

§ 72.07 ELIGIBLE DESTINATIONS.

Destinations that meet one or more of the following criteria shall be eligible for participation in the city's wayfinding plan:

- (A) Public places owned or operated by the federal, state, or local governments or their agencies;
- (B) Public or privately owned historic, cultural, scientific, educational, or religious sites;
- (C) Areas of natural scenic beauty or naturally suited for outdoor recreation or interest; and
- (D) Public or private destinations that serve to promote tourism.

(Prior Code, § 12-6-6.2) (Ord. 499, passed 10-3-2016)

§ 72.08 DESTINATION CRITERIA.

(A) City wayfinding signs shall not be used as a directional program for city-based, privately-owned businesses, organizations, and locations. Destinations must meet the criteria of § 72.07.

(B) Eligible destinations and must contribute to the draw of transient visitors to the area.

(Prior Code, § 12-6-6.3) (Ord. 499, passed 10-3-2016)

§ 72.09 SIGN CONSTRUCTION.

Construction and maintenance of city wayfinding signs shall be at the sole discretion and authority of the city and all city wayfinding signs shall comply with the wayfinding plan.

(Prior Code, § 12-6-6.4) (Ord. 499, passed 10-3-2016)

§ 72.10 SIGN LOCATION.

City wayfinding signs shall be placed within the approved right-of-way or in other city-approved areas.

(Prior Code, § 12-6-6.5) (Ord. 499, passed 10-3-2016)

§ 72.11 SIGN APPEARANCE.

City wayfinding signs shall comply with the provisions of the MUTCD with respect to shape, appearance, and standard requirements applicable to such signs.

(Prior Code, § 12-6-6.6) (Ord. 499, passed 10-3-2016)

§ 72.12 DUPLICATION OF FEDERAL AND STATE DESTINATION SIGNAGE PROHIBITED.

City wayfinding signs shall not be installed in a manner that interferes with or duplicates route or destination sign programs of the federal or state governments.

(Prior Code, § 12-6-6.7) (Ord. 499, passed 10-3-2016)

§ 72.13 ADDITIONAL REQUIREMENTS.

All city wayfinding signs must comply with the requirements and restrictions enumerated in the agreement entered between the city and the state's Department of Transportation.

(Prior Code, § 12-6-6.8) (Ord. 499, passed 10-3-2016)

TRUCK ROUTES

§ 72.25 TRUCK ROUTES.

All trucks entering, leaving, or operating within city limits shall be driven only over and along the truck routes herein established and upon such other designated streets and areas over which truck travel is permitted.

(Prior Code, § 12-9-1)

§ 72.26 DEFINITIONS.

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

DEVIATING TRUCK. A truck operating on city streets not designated as a **TRUCK ROUTE** while operating within the city limits.

PERSON. Any individual, association, company, corporation, firm, partnership, or organization.

TRUCK. Any motor vehicle designated or operated for the transportation of property which has a body weight or body and load weight which exceeds three tons per axle.

TRUCK ROUTE. The streets herein designated as the way over and along which trucks entering and leaving the city must operate.

(Prior Code, § 12-9-2)

§ 72.27 THROUGH TRUCK ROUTE ESTABLISHED.

It is hereby established within the city the following "through truck routes":

(A) All trucks entering or leaving the city from the north or south shall proceed along SD Highway 25 or Main Street, which streets are bounded on the north by US Highway 12 and on the south by First Avenue; and

(B) All trucks entering or leaving the city from the east or west shall proceed along US Highway 12.

(Prior Code, § 12-9-3)

§ 72.28 EXCEPTIONS.

Trucks may deviate from the above streets and highway for the following reasons:

(A) When it is necessary for conducting business at a destination in the city by first utilizing an established truck route to the point it becomes necessary to deviate from that route doing so at the intersection with the street or avenue nearest to the destination point and going directly to the destination point. Upon leaving the destination point, the deviating truck shall return to the nearest truck route by the shortest route;

(B) The operating of emergency vehicles upon any street in the city;

(C) The operation of trucks owned and operated by the city, a public utility, any contractor, or material supplier, while engaged in the repair, maintenance, and construction of improvements within the city; and

(D) The operation of trucks upon officially designated detour.

(Prior Code, § 12-9-4)

§ 72.29 LOAD LIMITS.

If load limits have to be imposed with weather changes, these load limits would coincide with state load limits when they are necessary.

(Prior Code, § 12-9-5)

§ 72.30 TRUCK ROUTE SIGNS.

The city Police Department shall cause all truck routes to be clearly marked to give notice that this chapter is in effect.

(Prior Code, § 12-9-6)

§ 72.31 ENFORCEMENT OF TRUCK ROUTES.

(A) The Police Department shall keep and maintain accurate maps setting out truck routes and streets upon which traffic is permitted. The maps shall be kept on file in the office of the Finance Officer and made available to the public.

(B) Any police officer having reason to believe that the weight of the vehicle and load is unlawful shall require and person driving or in control of said vehicle to proceed to any public or private scale available for the purpose of weighing and determining whether this chapter has been complied with provided that such vehicle is driven to the nearest scale but in no event more than five miles. It shall be unlawful for any person driving or in control of any such vehicle to fail to comply with this requirement.

(Prior Code, § 12-9-7) Penalty, see § 10.99

CHAPTER 73: RECREATIONAL VEHICLES

Section

Snowmobiles

- 73.01 Definition; compliance required
- 73.02 Permitted operations
- 73.03 Age restrictions on drivers
- 73.04 Mufflers
- 73.05 Brakes
- 73.06 Flagging
- 73.07 Safety equipment and inspection
- 73.08 Lights
- 73.09 Hours of permitted operation
- 73.10 Rules of the road
- 73.11 Permitting unauthorized person to drive a snowmobile is unlawful
- 73.12 Access, exit routes, and restrictions for off-road vehicles
- 73.13 Entering prohibited
- 73.14 Entering and leaving the city

Bicycles

- 73.25 License required
- 73.26 Procedure
- 73.27 Conditions of license
- 73.28 Defacing license number; taking bicycle without permission

- 73.99 Penalty

SNOWMOBILES

§ 73.01 DEFINITION; COMPLIANCE REQUIRED.

(A) *Definition.* For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

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

(B) *Compliance required.* No snowmobile shall be operated within the incorporated limits of the city except upon compliance with this subchapter.

(Prior Code, § 12-8-1) Penalty, see § 73.99

§ 73.02 PERMITTED OPERATIONS.

Snowmobiles shall operate over designated roadways when the same shall be snow covered or snow packed only, and such vehicles shall not be permitted to operate on the sidewalks.

(Prior Code, § 12-8-2)

§ 73.03 AGE RESTRICTIONS ON DRIVERS.

The age restriction shall be set as state law prescribes.

(Prior Code, § 12-8-3)

§ 73.04 MUFFLERS.

Every snowmobile shall be at all times equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise or annoying smoke.

(Prior Code, § 12-8-4)

§ 73.05 BRAKES.

Every snowmobile shall be equipped with brakes adequate to control the movement of and to stop and hold such vehicle.

(Prior Code, § 12-8-5)

§ 73.06 FLAGGING.

All snowmobiles shall exhibit a red flag or cloth not less than 12 inches square and hung or suspended five feet above ground level so that the entire area thereof is visible from all directions while on any road, street, or alley.

(Prior Code, § 12-8-6)

§ 73.07 SAFETY EQUIPMENT AND INSPECTION.

No snowmobile shall be driven on the roadway, street, or alley when said snowmobile is in such unsafe condition as to endanger any person or property. The city police may at any time upon reasonable cause to believe the snowmobile is unsafe or not equipped as required by this subchapter, require the driver of such vehicle to stop and submit such vehicle to an inspection and test with reference thereto as may be appropriate. No person shall operate any vehicle which has been found unsafe except to return such snowmobile to his or her residence, place of business, or to a garage until said vehicle has been placed in proper repair.

(Prior Code, § 12-8-7) Penalty, see § 73.99

§ 73.08 LIGHTS.

A snowmobile in motion during the period of one-half hour after sunset to one-half hour before sunrise shall display at least one lighted lamp on the front and back of said snowmobile; which headlight and taillight shall be in conformity with the standards set by state law.

(Prior Code, § 12-8-8)

§ 73.09 HOURS OF PERMITTED OPERATION.

No snowmobile shall be operated within the city between the hours of 9:00 p.m. and 6:00 a.m. except that a driver may drive during this restricted time when he or she is coming into city to his or her residence or drive during this restricted time when he or she is leaving the city to go to his or her residence or when driving from work to his or her residence.

(Prior Code, § 12-8-9) Penalty, see § 73.99

§ 73.10 RULES OF THE ROAD.

Every operator of a snowmobile shall observe all of the rules of the road pertaining to vehicles and in addition shall yield the right-of-way to motor vehicles. All ordinances of the city pertaining to the operation of vehicles shall be applicable to the operation of snowmobiles and are adopted by reference and made a part hereof, the same as if set forth fully herein.

(Prior Code, § 12-8-10)

§ 73.11 PERMITTING UNAUTHORIZED PERSON TO DRIVE A SNOWMOBILE IS UNLAWFUL.

No person shall authorize or knowingly permit a snowmobile owned by him or her or under his or her control to be driven on any public highway by any person who is not authorized hereunder or in violation of any of the provisions of this subchapter.

(Prior Code, § 12-8-11) Penalty, see § 73.99

§ 73.12 ACCESS, EXIT ROUTES, AND RESTRICTIONS FOR OFF-ROAD VEHICLES.

(A) Owners of off-road vehicles including snowmobiles and all terrain vehicles (three-wheelers) are to use the shortest routes when entering or leaving the city.

(B) (1) The vehicles will be operated as close as possible to the outer edge of right-of-way.

(2) No other streets are to be traveled except to access, by the most direct route possible, one of the above-specified routes.

(C) All ATVs shall be operated only during the hours from one-half hour before sunrise until one-half hour after sunset.

(D) Operators of all such vehicles shall be in possession of a valid driver's license and shall meet all other requirements of state traffic laws.

(Prior Code, § 12-8-12)

§ 73.13 ENTERING PROHIBITED.

Any person riding a snowmobile in the city limits shall be prohibited from entering upon the following property:

(A) Private property;

(B) Golf course;

(C) Vacant lots; and

(D) Industrial parks.

(Prior Code, § 12-8-13) Penalty, see § 73.99

§ 73.14 ENTERING AND LEAVING THE CITY.

All snowmobiles shall be allowed to enter and leave the city provided they use the designated route which is the nearest route from the snowmobile owner's house to exit the city limits and back.

(Prior Code, § 12-8-14)

BICYCLES

§ 73.25 LICENSE REQUIRED.

No person shall ride or propel a bicycle upon any street or other public highway in the city or upon any part thereof without first having secured and attached to such bicycle a proper license tag as provided hereinafter.

(Prior Code, § 7-6-1) Penalty, see § 73.99

§ 73.26 PROCEDURE.

(A) Applications for a license to own and operate a bicycle shall be made to the City Treasurer. Such application shall be accompanied by a fee on file in the Finance Office to be paid into the City Treasury upon the granting of a license. After entry upon license register, applications shall be transmitted by the Treasurer to the Police Department for the purpose of keeping a record in said Police Department.

(B) Upon receipt of such application and upon receipt of the license fee as hereinbefore provided, it shall be the duty of the City Treasurer to issue to such applicant, a proper license and a tag shall be attached to the frame of the bicycle in a substantial manner and such bicycle shall not be operated at any time without having such tag attached hereto. The removal of any such tag, except by proper authority, shall be a violation of this section. In case of loss of any license tag, a new tag shall be issued by the City Treasurer upon proper application and upon payment of an additional fee.

(Prior Code, § 7-6-2) Penalty, see § 73.99

§ 73.27 CONDITIONS OF LICENSE.

Every license issued hereunder shall be deemed to be granted subject to the following conditions.

(A) No person shall ride or propel a bicycle on a street or other public highway of the city with another person on the handlebars or in front of the operator.

(B) No bicycle shall be ridden faster than is reasonable and proper, but every bicycle shall be operated with reasonable regard to the safety of the operator and other persons upon the sidewalks, streets, and other public highways of the city.

(C) Persons riding bicycles shall observe all traffic signs and stop at all stop signs.

(D) No bicycles shall be operated with the city between 30 minutes after sunset and 30 minutes before sunrise, without a headlight visible under normal atmospheric conditions from the front thereof for not less than 300 feet indicating the approach or presence of the bicycle, firmly attached to such bicycle and properly lighted, or without a yellow or red light or reflector attached to and visible from 200 feet from the rear thereof. The said headlight shall give a clear white light.

(E) No person shall ride or propel a bicycle upon any street or other public highway in the city abreast of or to the left of more than one other person riding or propelling a bicycle, or upon any public sidewalks, nor shall any person ride or operate a bicycle by holding on or attaching said bicycle in any manner to any other vehicle on any public highway or street.

(F) Every person riding or propelling a bicycle upon any street or other public highway in the city shall observe all traffic rules and regulations applicable thereto, and shall turn only at intersections, signal for all turns, ride at the right-hand side of the street or highway, pass to the left when passing overtaken vehicles and individuals that are slower moving, and shall pass vehicles to the right when meeting.

(Prior Code, § 7-6-3) Penalty, see § 73.99

§ 73.28 DEFACING LICENSE NUMBER; TAKING BICYCLE WITHOUT PERMISSION.

No person shall deface, mutilate, or remove a license tag placed upon any bicycle, nor shall any person take any bicycle for the purpose of riding or propelling the same upon the street or other public highway without the consent of the owner.

(Prior Code, § 7-6-4) Penalty, see § 73.99

§ 73.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Any person who shall violate §§ 73.01 to 73.14 shall be subject to a fine on file in the Finance Office.

(Prior Code, § 12-8-15)

CHAPTER 74: TRAFFIC SCHEDULES

Schedule

I. Speed regulations

SCHEDULE I: SPEED REGULATIONS.

(A) *Restrictions as to speed.* Any person driving a vehicle on a street or highway shall drive the same at a careful and prudent speed not greater than is reasonable and proper, having due regard to the traffic, surface, and width of the street or highway and to any other conditions existing, and no person shall drive any vehicle upon a highway or street at such a speed as to endanger the life, limb, or property of any person.

(Prior Code, § 12-5-1)

(B) *Speed limitations.* It shall be unlawful for any driver to drive any vehicle upon a highway or streets of the city or in any municipal park at a greater rate of speed than the following:

(1) Fifteen mph when approaching within 50 feet of a railroad grade crossing when the driver's view is obstructed. A driver's view shall be deemed to be obstructed when at any time during the last 200 feet of his or her approach to such crossing he or she does not have a clear and uninterrupted view of such crossing and of any traffic on such railway for a distance of 400 feet in such direction from such crossing;

(2) Fifteen mph when passing a school during a school recess or while children are going to or leaving school during the opening or closing hours;

(3) Fifteen mph when approaching within 50 feet and in traversing an intersection of streets when the driver's view is obstructed. A driver's view shall be deemed to be obstructed when at any time during the last 50 feet of his or her approach to such intersection he or she does not have a clear and uninterrupted view of such intersection for a distance of 200 feet from such intersection;

(4) Twenty-five mph on "Thru Streets";

(5) Fifteen mph in the city parks, and in the city cemetery; and

(6) All other roads and highways as posted.

(Prior Code, § 12-5-2)

TITLE IX: GENERAL REGULATIONS

Chapter

90. ANIMALS

- 91. NUISANCES
- 92. PROPERTY MAINTENANCE
- 93. STREETS AND SIDEWALKS
- 94. FIRE PREVENTION
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CHAPTER 90: ANIMALS

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- 90.02 Application
- 90.03 Fee, tag
- 90.04 Exceptions
- 90.05 Dogs muzzled
- 90.06 Dogs at large; barking
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- 90.63 Metal or plastic containers
- 90.64 Dumping of garbage and rubbish unlawful
- 90.65 Storage of lumber and other material

90.99 Penalty

DOGS AND CATS

§ 90.01 LICENSE.

It shall be unlawful for any person or persons within the city to keep, maintain, or have in his or her custody or under his or her control any dog or animals of the dog kind and/or cat, without first having obtained a license to do so from the City Finance Officer as hereinafter provided without having paid a license fee therefor. No person in the city or any area controlled by the city may keep, maintain, or have in his or her custody or under his or her control, any more than three licensed dogs over the age of three months.

(Prior Code, § 7-3-1) Penalty, see §90.99

§ 90.02 APPLICATION.

Any person or persons desiring to keep, maintain, or have in his or her custody or control, by himself, herself, or agent within the said city, any dog or cat shall, on or before December 31 in each year, make application to the City Finance Officer for a license to keep such dog or cat; such application shall be verbal or in writing stating the name, sex, color, and other distinguishing characteristics of said dog or cat and the name of the owner thereof, and that said dog or cat has no vicious propensities so far as known to said applicant, which application shall be made on a printed blank furnished by the City Finance Officer and shall be filed with said City Finance Officer. The applicant shall exhibit to the Finance Officer a certificate from a registered veterinarian that such dog or cat has been inoculated against rabies and such inoculation will be effective for the period for which the dog or cat is licensed.

(Prior Code, § 7-3-2)

§ 90.03 FEE, TAG.

The applicants shall at the time of making such application, pay to the City Finance Officer a license fee for each male dog or cat or spayed female dog or cat; and the license fee for each unsprayed female dog or cat, and said license fees shall be set by the City Council and on file at the office of the Finance Officer, and it shall be the duty of the City Finance Officer at the time of the issuance of the license herein provided for, to furnish and deliver to said applicant a metallic tag for each dog or cat for which such registered number of the dog or cat and the year when registered, and it shall then be the duty of the owner of the dog or cat to place a collar around the neck of such dog or cat so owned or kept by him or her, on which collar shall be securely fastened a metallic tag so furnished by the City Finance Officer, provided that in case of the loss of any tag so issued, the said City Finance Officer is authorized to issue a duplicate.

(Prior Code, § 7-3-3) Penalty, see §90.99

§ 90.04 EXCEPTIONS.

The licensing provisions of this subchapter shall not apply to dogs when owned by nonresidents temporarily within the city, and not to "seeing-eye dogs" properly trained when such dogs are actually kept for use by blind persons for the purpose of going from place to place.

(Prior Code, § 7-3-4)

§ 90.05 DOGS MUZZLED.

The Mayor may, by proclamation, at any time, upon 48 hours' notice publish in the official newspaper of the city, an order that all dogs in the city be muzzled in such a manner as to make it impossible for said dogs to bite any person or other animal.

(Prior Code, § 7-3-5)

§ 90.06 DOGS AT LARGE; BARKING.

(A) It shall be unlawful for any person or persons to permit or suffer to run at large within the limits of the city any dog or animal of the dog kind, whether licensed or unlicensed, and any police officer or person of proper authority is hereby authorized and empowered to impound any such dog or animal found running at large in violation of the provisions of this section.

(B) Any dog shall be deemed ***RUNNING AT LARGE*** within the meaning of this section when such animal is not confined upon the premises of its owner or on a leash in the hands of some attendant, or unless such animal, if loose, is

accompanied by its owner or attendant.

(C) No person owning any dog, licensed or unlicensed, confined on the premises or otherwise, shall suffer or permit such dog to disturb the peace and quite of the neighborhood by continuous barking or making other loud or unusual noises.

(D) Upon signed complaint to the Police Department that any person is keeping or harboring any dog which disturbs the peace as herein set forth, it shall be the duty of said Police Department to notify the owner of said dog in writing of said complaint, and after such owner has been given the 48 hours' notice of such habit, any police officer or person of proper authority is hereby authorized and empowered to go upon the premises and impound any such dog or animal so disturbing the peace. In addition to the impounding of such animal or other penalties prescribed, the owner thereof shall be subject to a fine and the penalties on file in the Finance Office.

(E) If the officer does not hear the alleged disturbance, but the complaining citizen is willing to sign a statement attesting to the disturbance with times and descriptions of such disturbance, the officer may use the statement to judge if the disturbance is severe enough to impound the creature. If the owner or caretaker is not at home, the officer will leave a notice informing him or her of the impoundment. The owner or caretaker will be responsible for all costs.

(Prior Code, § 7-3-6) Penalty, see § 90.99

§ 90.07 DESTRUCTION OF DOGS RUNNING AT LARGE.

(A) The Chief of Police is hereby authorized to employ, whenever he or she deems it necessary, a sufficient number of persons to capture and convey to the dog pound, and care for, kill, and dispose of in the manner herein provided, all dogs found running at large contrary to the provisions of this chapter. It shall be lawful for any person to restrain and take up any creature found running at large contrary to the provisions of this subchapter and to deliver the same to the Chief of Police or to any police officer or animal control officer, who shall receive such animal and proceed in the like manner, as if the same had been taken by him or her or under his or her authority.

(SDCL 9-29-12)

(B) All dogs captured and conveyed to the dog pound, as established by the city, shall be kept with humane treatment and supplied with sufficient food and water for a period of at least 48 hours, unless sooner reclaimed by the owner or keeper thereof as herein provided. When the owner or claimant of a dog so impounded shall desire to redeem such dog from the pound, such dog may be released upon the payment to the person in charge of such dog pound, of an amount set by the City Council and on file at the office of the Finance Officer and costs of keeping, and shall exhibit a license for such dog issued in the manner herein provided, and the person in charge of such dog pound shall thereupon release such dog to such owner or claimant; provided further, for the second time the dog is impounded, the payment shall be increased in an amount set by the City Council and on file at the office of the Finance Officer, and the costs of keeping and shall procure a license as hereinabove provided; still further, for the third and still further subsequent impoundment's, the payment shall be further increased in an amount set by the City Council and on file at the office of the City Finance Officer, and the costs of keeping and shall procure a license as hereinabove provided.

(C) At the expiration of 48 hours from the date of the impounding such dog, if the same shall fail or refuse to comply with the provisions of this subchapter for the releasing of the same, it shall be the duty of the person in charge of such dog pound to destroy such dog and to cause it to be removed and properly buried; provided, that the owner of licensed dogs shall have 24 hours' notice in writing, after the expiration date of said 48 hours, before the animal shall be killed or destroyed.

(D) It shall be the duty of the persons in charge of said dog pound before destroying the dog under the provisions of this subchapter to sell said dog at a private sale to any person who is willing to pay a sum sufficient to reimburse the city for all expenses of keeping said dog and the fee set by the City Council and on file in the office of the Finance Officer; provided, also, that if a dog is of a vicious disposition or has dangerous habits, the police shall notify in writing the owner or possessor of such dog to confine such dog, and if thereafter such owner or possessor fails to comply with such notices, the police are authorized, empowered, and directed to kill or cause to be killed such dog, whether found running at large or upon the premises of the owner of such dog, forthwith, and without impounding the said dog.

(Prior Code, § 7-3-7)

§ 90.08 SCIENTER NOT AN ELEMENT OF THE OFFENSE.

In any proceeding for violation of the provisions of this subchapter relating to dogs, the use of words herein **PERMIT OR SUFFER SUCH DOG TO DISTURB THE PEACE** shall not be constructed as making scienter an element of the offense, and the knowledge or lack of knowledge of the person or persons committing the act or violating this chapter shall be considered immaterial.

(Prior Code, § 7-3-8)

§ 90.09 QUARANTINE.

The owner of any animal which has contracted rabies, or subjected to the same, or which is suspected of having rabies, shall, upon the demand of the Police Department or the Health Department, produce said animal to the Department to be held in quarantine for observation for a period of ten days. If examination of any animal shall prove it to be infected with rabies, it shall be disposed of as directed by an officer of such Department or licensed veterinarian of any animal so quarantined shall pay all costs and expenses incurred by the quarantine period for maintenance and examination of such

animal including veterinarian.

(Prior Code, § 7-3-9)

§ 90.10 REMOVAL OF EXCREMENT.

It shall be unlawful for any person who possesses or is in charge of any dog, cat, or animal not to immediately remove excrement deposited by a dog or animal upon a common thoroughfare, street, sidewalk, play area, park or upon city property, or upon any private property when permission of the owner or tenant of said property has not been obtained, and such is hereby declared to be a public nuisance and prohibited. Any person accompanied by any creature in public or private property, other than his or her own, must carry with him or her visible means of cleaning up any fecal matter left by the animal.

(Prior Code, § 7-3-10) Penalty, see § 90.99

§ 90.11 PET WASTE.

No person will allow creature fecal matter to accumulate on his or her property. Any amount of fecal matter that is in excess of ten separate bowel movements will be considered a violation of this section. In addition, any fecal matter that is producing a foul odor or attracting insects will be a violation of this section.

(Prior Code, § 7-3-11) Penalty, see § 90.99

§ 90.12 IGNORANCE OF THE LAW IS NO EXCUSE.

In any proceeding for violation of this chapter relating to dogs, cats, or other animals, the use of the words "permit" or "suffer" shall not be construed as making ignorance a defense, and the knowledge or lack of knowledge of the person or persons committing the act of violating this chapter is immaterial.

(Prior Code, § 7-3-12)

§ 90.13 VICIOUS ANIMALS PROHIBITED.

(A) *General regulation.* It shall be unlawful for any person to keep, maintain, or have in his or her possession or under his or her control within the city any vicious animal.

(B) *Definition.* For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

VICIOUS ANIMALS. Includes:

(a) Any animal which, according to records of the appropriate authority, has inflicted serious injury on a human being on public or private property;

(b) Any animal, according to records of appropriate authority, has killed or seriously injured a domestic animal while off of the owner's property;

(c) Any animal owned or harbored primarily or in part for the purpose of fighting, or any animal trained for fighting;

(d) Any animal which chases or approaches a person upon the streets, sidewalks, or any public or private property in a menacing fashion or apparent attitude of attack; and

(e) Any animal of a known propensity, tendency, or disposition to attack, to cause injury, or to otherwise threaten the safety of human beings or animals.

(C) *Specific canine breeds prohibited as vicious.* No local government may enact, maintain, or enforce any ordinance, policy, resolution, or other enactment that is specific as to the breed or perceived breed of a dog. This section does not impair the right of any local government unit to enact, maintain, or enforce any form of regulation that applies to all dogs.

(D) *Exemptions for animals that are provoked.* It is recommended no animal be declared vicious if the threat, injury, or damage was sustained by a person who at the time was committing a willful trespass or other tort upon the premises occupied by the owner or keeper of the animal, or was teasing, tormenting, abusing, or assaulting the animal, or has, in the past, been observed or reported to have teased, tormented, abused, or assaulted the animal or was committing or attempting to conduct a crime.

(E) *Notice to owner.* If any dog is of a vicious disposition or has dangerous habits, or is suspected of being diseased, the police shall notify the owner or possessor of such dog orally or by written private or public notice to confine or muzzle such dog and if thereafter such owner or possessor fails to comply with such notice, the police are authorized, empowered, and directed to kill or cause to be killed such dog, whether found running at large or upon the premises of the owner of such dog, forthwith, and without impounding such dog.

(F) *Procedure after an attack takes place.* Any animal involved in an unprovoked attack which results in serious injury to any human, shall be impounded and if unable to be captured, any law enforcement officer is authorized to destroy the animal to prevent further endangerment to human life. Any animal impounded for an unprovoked attack which results in injury to any human shall be euthanized or, at the discretion of the city, the animal may be placed at a home outside of the city. Unless permitted by the City Council, no vicious animal shall be returned to reside in the city. Because of the dangers

involved in housing a vicious animal, the owner must show cause in court within five days of impoundment of vicious animal why the animal should not be destroyed.

(G) *Poisoning prohibited.* It shall be unlawful to willfully administer poison to any dog or other animal, the property of another, or to expose any poisonous substance with intent that the same shall be taken by such animal.

(Prior Code, § 7-3-13) Penalty, see § 90.99

WILD OR DANGEROUS ANIMALS

§ 90.25 WILD OR DANGEROUS ANIMALS PROHIBITED.

It shall be unlawful for any person to keep, maintain, or have in his or her possession or under his or her control within the city, any poisonous reptile or any other dangerous animal or carnivorous wild animal or reptile, or any other animal or reptile of wild, vicious, or dangerous propensities.

(Prior Code, § 7-3-13) Penalty, see § 90.99

§ 90.26 DEFINITION.

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

DANGEROUS ANIMAL. Any wild mammal, reptile, or fowl which is not naturally tame or gentle, but is of a wild nature or disposition, and which because of its size, vicious nature, or other characteristics would constitute a danger to human life or property if it escaped from secure quarters. **DANGEROUS ANIMAL** also includes any domestic mammal, reptile, or fowl which because of its size or vicious propensity or other characteristic would constitute a danger to human life or property if it escaped from secure quarters.

(Prior Code, § 7-3-13)

§ 90.27 SPECIFIC ANIMALS PROHIBITED AS DANGEROUS.

(A) It shall be unlawful for any person to keep, maintain, or have in his or her possession or under his or her control within the city any of the following animals:

- (1) Any animal which has been declared to be protected or endangered by the US Department of the Interior;
- (2) All poisonous animals, including rear-fang snakes;
- (3) Badgers (mustelidae);
- (4) Bears (ursidae);
- (5) Beavers (castoridae);
- (6) Canids, that is: wolves, foxes, coyotes, jackals, dingo, raccoon dogs, or any hybrid thereof;
- (7) Civet (viverrines);
- (8) Civet or raccoon dog (nycterevtes procyonoides);
- (9) Constrictor snakes;
- (10) Crocodylians, that is: alligators, crocodiles, caimans, and cavials;
- (11) Eagles, hawks, and owls;
- (12) Edentata, that is: anteaters, tamanduas, sloths, and armadillos;
- (13) Emus (casuariiformes);
- (14) Felids, that is: lions, tigers, leopards, cheetahs, jaguars, pumas, lynx, ocelots, bobcats, or any hybrid thereof;
- (15) Game cocks and other fighting birds;
- (16) Hyenidea (hyenas);
- (17) Marsupials, that is: opossums, Tasmanian wolf, kangaroos, koalas, and wombats;
- (18) Muskrats (ondatra);
- (19) Ostriches (struthio);
- (20) Porcupine (hystricomorpha);
- (21) Primates (non-human) that is: apes, monkeys, baboons, chimpanzees, gibbons, gorillas, orangutans, and siamangs;
- (22) Procuoriids, that is: raccoons, coatis, kinkajous, ring-tailed cats, and pandas;

(23) Rheas (rheiformes);

(24) Skunks (mephitinae);

(25) Squirrels (scuridae);

(26) Sharks (chondrichthyes);

(27) Swine (suidae);

(28) Ungulates, that is: elephants, zebra, tapirs, rhinoceroses, camel, llama, caribou, antelope, bison, reindeer, deer, giraffe, hippopotamus, wild boar, gazelle, and gnu;

(29) Water buffalo (bubalus);

(30) Wart hogs (phacochoerus aethiopicus); and

(31) Weasels.

(B) Commercial animal shows or circus companies may obtain a permit from the city for shows to be performed in the city.

(Prior Code, § 7-3-13) Penalty, see § 90.99

Cross-reference:

Carnivals and circuses, see § 112.20

§ 90.28 OWNER TO REPORT ESCAPE OR DANGEROUS ANIMALS AND ANIMALS NOT INDIGENOUS TO THE STATE.

The owner or keeper of any member of a species of the animal kingdom that escapes from their custody or control and that is a dangerous animal or is not indigenous of this state, or presents a risk of serious physical harm to persons or property shall, within one hour after he or she discovered or reasonably should have discovered the escape, report it to a law enforcement officer or elected official of the city, and to the County Sheriff's Office.

(Prior Code, § 7-3-13)

FARM ANIMALS

§ 90.40 ANIMALS RUNNING AT LARGE.

No person shall allow any horse, cow, swine, sheep, or goat to run at large.

(Prior Code, § 8-4-1) Penalty, see § 90.99

§ 90.41 FOWL IN THE CITY.

No person shall allow any ducks, geese, chickens, or other domestic fowl to run at large.

(Prior Code, § 8-4-2) Penalty, see § 90.99

Cross-reference:

Keeping fowl, see § 91.02

§ 90.42 KEEPING FARM ANIMALS.

No person shall keep any horse, cow, goat, or sheep, or erect or maintain any building or enclosure for use in keeping any such animals within 300 feet of any dwelling house or building use for human habitation, other than that of the owner of such animals. New enclosed buildings or structures containing livestock within the 300-foot limit may be approved with an agreement from adjacent land owners and will also need county approval.

(Prior Code, § 8-4-3) Penalty, see § 90.99

§ 90.43 PIGS PROHIBITED.

No person shall place, keep, or maintain any live hogs within the city, excepting such hogs as are kept in the yards or pens of the railway companies for shipping purposes, or in pens, houses, or yards or stockyards, packing houses, or butcher shops and kept for the purpose of immediate shipment or slaughter.

(Prior Code, § 8-4-4) Penalty, see § 90.99

RAT ERADICATION

§ 90.55 DEFINITIONS.

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

BUSINESS BUILDING. Any structure, either public, or private, that is adapted for occupancy for transaction of business, play, sale, or storage of goods, wares, or merchandise, or for the performance of work or labor, including, but not being limited in this application, hotels, rooming houses, office buildings, public buildings, stores, theaters, markets, restaurants, grain elevators, warehouses, work shops, factories, and all out buildings, sheds, barns, and other structures on premises used for business purposes.

OCCUPANT. The individual or partnership who, or the corporation that, has the use of or occupies any business building, or a part of or a portion thereof, whether the actual owner, tenant, or subtenant. In the case of vacant buildings, or any vacant portion of a business building, the owner, agent, or other person having custody of said building shall have the responsibilities of an **OCCUPANT** of said building.

OWNER. The actual owner of the business building, either individual, partnership, or corporation, the agent of the owner in charge of said building, and the person having custody of said building, and the person to whom any rental upon said building is paid. In the case of business buildings leased under agreement that the lessee is responsible for maintenance and repairs, the lessee will in such cases also be considered as the **OWNER** for the purpose of this subchapter.

RAT HARBORAGE. Any condition which provides shelter or protection for rats, thus favoring their multiplication and continuous existence in, under, or outside of a structure of any kind.

RAT-PROOFING. A form of rat-proofing to prevent the ingress into business buildings, from the exterior or from one business building to another. It consists essentially of the closing, with material impervious to rat gnawing, of all openings in the exterior wall, ground or first floors, basements, and foundations that may be reached by rats from the ground by climbing or by burrowing.

(Prior Code, § 6-13-1)

§ 90.56 RAT-PROOFING BUILDINGS.

It is hereby provided and required that all business buildings in said city shall be rat-proofed, freed of rats, and maintained in a rat-proof and rat-free condition, under the direction and supervision of the City Council.

(Prior Code, § 6-13-2)

§ 90.57 NOTICE TO OWNER.

Upon receipt of written notice and/or order from the City Council, the owner of any building specified in said notice or order shall take immediate steps for rat-proofing said buildings, and unless said work and improvements required for such rat-proofing have been completed by the owner of said building in the time specified in said written notice or order, or within the time to which a written extension may have been granted by the City Council, then the owner shall be deemed to have violated a provision of this subchapter.

(Prior Code, § 6-13-3)

§ 90.58 NOTICE, CHARGE AGAINST OWNER.

Whenever the City Council notifies the occupant of a business building that there is evidence of a rat infestation in said building, said occupant shall immediately institute appropriate steps for freeing said building of rats within ten days after receipt of such notice. If within ten days said building is not free of rats, the city shall institute such action as is necessary and shall charge occupant for labor, material, and equipment necessary for the eradication measures carried out.

(Prior Code, § 6-13-4)

§ 90.59 MAINTAINING RAT-PROOF CONDITION.

The occupants of all rat-proofing business buildings are required to maintain the premises in a rat-proof condition and to repair all breaks and leaks that may occur in the rat-proofing.

(Prior Code, § 6-13-5)

§ 90.60 INSPECTIONS.

The City Council is empowered to make unannounced inspections of both the interior and exterior of business buildings within the city as in its opinion may be necessary to determine whether there has been a full compliance with this subchapter, and to require a full compliance with this subchapter. If at any time of any inspection, the City Council finds evidence of rat infestation, and/or the existence of breaks or leaks in the rat-proofing, or new openings through which rats may again enter said buildings, the City Council shall serve upon the owner or occupant of said building a notice and/or order to abate the conditions found.

(Prior Code, § 6-13-6)

§ 90.61 INSTALLATION OF FLOORS.

Whenever conditions inside or under business buildings provide such extensive harborage for rats that the City Council deems it necessary to eliminate such harborage, he or she may require the owner to install cement floors or basement or to replace wooden first floors or ground floors or require the owner to correct such other interior rat harborage as may be

necessary in order to facilitate the eradication of rats in a reasonable length of time.

(Prior Code, § 6-13-7)

§ 90.62 REMOVAL OF RAT-PROOFING.

It shall be unlawful for the occupant, owner, contractor, public utility company, plumber, or any other person to remove the rat-proofing from any business building for any purpose and fail to restore the same in a satisfactory condition; and, in like manner, it shall be unlawful for any such person to make any new openings that are not sealed or closed against the entrance of rats.

(Prior Code, § 6-13-8) Penalty, see § 90.99

§ 90.63 METAL OR PLASTIC CONTAINERS.

Everywhere within the city, all garbage or other refuse shall be placed and stored in covered metal or plastic containers, compartments, or rooms, unless kept in a rat-proof building.

(Prior Code, § 6-13-9)

§ 90.64 DUMPING OF GARBAGE AND RUBBISH UNLAWFUL.

It shall be unlawful for any person, firm, or corporation to place, leave, dump, or permit the accumulation of any garbage, rubbish, or trash in any building or upon any premises in said city so that the same shall or may provide food or harborage for rats.

(Prior Code, § 6-13-10) Penalty, see § 90.99

§ 90.65 STORAGE OF LUMBER AND OTHER MATERIAL.

It shall be unlawful for any person, firm, or corporation to permit to accumulate upon any premises, whether improved or vacant, or upon any open lot or alley in said city, any lumber, boxes, barrels, bricks, stones, or any other materials that may be permitted to remain thereupon for any longer time than a temporary period reasonably required for the use of such materials in a building or repairing of property, unless same shall be placed on open racks that are elevated not less than 18 inches above the ground, and evenly piled or stacked so that such material will not afford harborage for rats.

(Prior Code, § 6-13-11) Penalty, see § 90.99

§ 90.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Any dog or cat owner who fails to purchase a license, as provided by §90.03, for their dog or cat shall be subject to a fine of \$25 as set in this subchapter.

(Prior Code, § 7-3-3)

(C) (1) Any person violating the provisions of §§90.01 to 90.13 and §§ 90.25 to 90.28 shall be guilty of a Class 2 misdemeanor. Any person who violates the provisions of §§ 90.01 to 90.13 and §§ 90.25 to 90.28 shall be deemed to have engaged in a public nuisance as defined in SDCL Chapter 21-10.

(2) Any owner who allows a vicious animal to be in violation of the provisions of §90.13 shall be guilty of a misdemeanor and, if convicted, will be guilty of a further violation each day that such condition is allowed to exist or goes uncorrected.

(Prior Code, § 7-3-13)

CHAPTER 91: NUISANCES

Section

General Provisions

- 91.01 Definition; nuisances generally
- 91.02 Keeping fowl
- 91.03 Notice and order of violation
- 91.04 Emergency action without notice
- 91.05 Abatement
- 91.06 Appeals

Public Nuisances

91.20 Definition; remedy

GENERAL PROVISIONS

§ 91.01 DEFINITION; NUISANCES GENERALLY.

(A) *Nuisances prohibited.* No person shall create, commit, maintain, or permit to be created, committed, or maintained any nuisance as defined herein.

(B) *Definition.* For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

NUISANCE. Whatever is dangerous to human health, whatever renders the ground, the water, the air, or food a hazard or an injury to human health, and the following specific acts, conditions, and things are, each and all of them, hereby declared to constitute nuisances:

(a) *Bonfires in public places.* Burning, causing, or permitting to be burned in any street, alley, or public ground any dirt, filth, manure, garbage, sweeping leaves, ashes, paper, rubbish, or material of any kind;

(b) *Breeding place for flies.* The accumulation of manure, garbage, or anything whatever in which flies breed;

(c) *Dangerous agencies.* Anything that is dangerous to human health or which renders the ground, the water, the air, or food a hazard or injury, to the public health;

(d) *Dead animals.* For the owner of a dead animal or fowl to permit it to remain non-disposed of longer than 24 hours after its death;

(e) *Dilapidated buildings.* A building or structure within the city limits which is so dilapidated, decayed, unsafe, unsanitary, or utterly fails to provide the amenities essential to decent living that is unfit for human habitation and is likely to cause or is causing aggravation, sickness, or disease so as to work an injury to the health, morals, safety, or general welfare of the community;

(f) *Farm and other live animals.* No person shall keep any live farm animals which are deemed to include horses, cattle, swine, sheep, and other animals that are normally raised or kept on farms. No person shall keep any live wild animals. No person shall keep any live animals in a manner so as to cause a public nuisance within the city limits. No person shall keep any ducks, geese, turkeys, pheasants, quail, partridges, guineas, pigeons or other like domestic fowl within the city limits, except for chickens kept within the provisions of this section;

(g) *Garbage and refuse.* Depositing, maintaining, or permitting to be maintained or to accumulate upon any public or private property, any household wastewater, sewage, garbage, tin cans, offal, or excrement, any decaying fruit, vegetables, fish, meat, or bones or any foul, putrid, or obnoxious liquid substance;

(h) *Garbage handling improperly.* Throwing or letting fall or permitting to remain on any street, alley, or public ground, highway to dumping ground and any highway within one mile of the city limits, any manure, garbage, rubbish, filth, fuel, or wood while engaging in handling or removing and transporting such substances;

(i) *Ice boxes, refrigerators, or air-tight container.* The keeping, leaving, or permitting to retain outside of any dwelling, building, or other structures or premises, in a place accessible to children, of any discarded ice boxes, refrigerators, or other container which has an air-tight door or lid, snap lock, or other locking device which may not be released from the inside, without first removing the said door or lid, snap lock, or other locking device from said ice box, refrigerator, or container, is declared to be a nuisance and in violation of SDCL 34-28-3; the person responsible for said violation shall be subject to a fine in an amount set by the City Council and on file in the office of the City Finance Officer;

(j) *Imperfect plumbing.* Any imperfect, leaking, unclean, or filthy sink, water closet, urinal, or other plumbing fixture in any building used or occupied by human beings;

(k) *Impure water.* Any well or other supply of water used for drinking or household purposes which is polluted or which is so constructed or situated that it may become polluted;

(l) *Manure.* The accumulation of manure;

(m) *Nuisance parking and storing.* Parking or storing any vehicle, camper, trailer, or watercraft outside in the yard area adjacent to a street and on the lawn or ground surface other than on a permeable or porous pavement or paved or graveled parking surface or driveway area; provided, however, that this prohibition shall not apply to a vehicle camper, trailer, or watercraft that is enclosed by a fence, wall, hedge, or other substantial obstruction and is not visible to the public from the adjacent street. Vehicles, campers, watercraft, and other articles stored outside on residential property must be owned by a person who resides on or owns the property. Students who are away from school for periods of time but still claim the property as their legal residence will be considered residents on the property. **YARD AREA ADJACENT TO A STREET** means the horizontal distance between the right-of-way of a street to the foundation of the primary structure on the lot;

(n) *Offensive premises.* Permitting any grocery store, shop, factory, warehouse, stable, barn, or other place to become nauseous or offensive;

(o) *Parking trucks or trailers in residential districts* Parking or permitting a truck or trailer 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 or which when operating produces loud offensive noise;

(p) *Poison ivy.* Permitting poison ivy to be or grow upon any private property nearer than 15 feet from the sidewalk or any public street;

(q) *Polluting bodies of water.* Throwing or leaving any dead animals or decayed animal or vegetable matter or any slops of filth whatever, either solid, or fluid into any pool of water;

(r) *Privies and cesspools.* Erecting or maintaining any privy or cesspool except such sanitary privies and cesspools, the plans of which are approved by the State Health Department;

(s) *Rodents.* Accumulation of junk, old iron, automobiles, cement slabs, or parts thereof, or anything whatever in which rodents may live or breed or accumulate;

(t) *Rubbish on street.* The piling or depositing of any dirt, shavings, sawdust, leaves, ashes, manure, straw, or waste material of any kind upon street, alley, or public ground;

(u) *Smokestacks and smoke nuisance.* The construction, use, or maintenance of any smokestack or chimney, which emits sparks, cinders, or dense smoke, which is dangerous to the health, comfort, or property of persons, or the value of the property;

(v) *Stagnant water.* Any excavation in which stagnant water is permitted to collect;

(w) *Unconfined refuse.* The depositing, unloading, placing, storing, or otherwise piling of any dirt, straw, shavings, seeds, grain screenings, chaff, leaves, ashes, paper, or material of any kind upon property without covering the same in order to prevent it to be moved and blown about by wind upon property of another or upon any street or alley or public property;

(x) *Undressed hides.* Undressed hides kept longer than 24 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;

(y) *Use of sanitary sewer.* Permitting drainage water, blood, buttermilk, whey, by-products of milk, sewer pipe consuming acids, or any substance or material which interferes with the normal flow of sewage or prevents, blocks, or stops the flow of sewage; and

(z) *Weeds and grasses.* Permitting weeds and grasses to grow to maturity or over ten inches high on any private property including vacant lots.

(Prior Code, § 6-9-1) (Ord. 502, passed 8-7-2017; Ord. 513, passed 7-1-2019) Penalty, see §10.99

§ 91.02 KEEPING FOWL.

(A) *Definitions regarding chickens.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BROODING. The period of chicken growth when supplemental heat must be provided due to the bird's inability to generate enough body heat.

CHICK. A baby chicken not more than six weeks old.

CHICKEN. A domesticated bird of the order of Galliformes in the genus of Galus (chickens) that serves as a source of eggs or meat.

COCKEREL. A young male chicken.

COOP. The structure for the keeping or housing of chickens permitted by the ordinance.

EXERCISE YARD. A larger fenced area that provides space for exercise and foraging for the birds when supervised.

HEN. A female chicken.

OFFICER. Any person designated by the City Council as an enforcement officer.

PULLET. A young laying chicken, less than one year old.

REVOCABLE PERMIT. It is the purpose and intent of this section to permit the keeping and maintenance of brooding chicks, pullets, and hens for egg and meat sources in a clean and sanitary manner that is not a nuisance to or detrimental to the public health, safety, and welfare of the community. The keeping and maintenance of brooding chicks, pullets, and hens is permitted to all residents who comply with all requirements, limitations, or prohibitions of this section. Such permit may be revoked if the person holding the permit refuses or fails to comply with this chapter or with any state or local law governing cruelty to animals or the keeping of animals. Any revocation shall be effective after ten days following written notice thereof to the person or persons keeping or maintaining such chickens. Any person whose permit is revoked within ten days thereafter shall humanely dispose of all chickens being owned, kept, or harbored by such person.

ROOSTER. A male chicken.

RUN. A fully enclosed and covered area attached to a coop where the chickens can roam unsupervised.

(B) *Investigation and enforcement.* Officers designated by the City Manager shall have authority in the investigation and enforcement of this section, and no person shall interfere with or hinder such officer in the exercise of such powers. The Code Enforcement Officer shall make investigations as is necessary.

(C) *Limitations on the number and keeping of chickens* Chickens may only be kept within areas of the city zoned to permit single-family dwellings as outlined: no more than eight laying/meat hens shall be housed or kept on any one residential lot. Residents may possess a like number of brooding or pullet chicks intended for the cyclical replacement of hens, but not for the purpose of sale or resale. Once pullets reach full laying potential, the flock numbers must be returned to no more than eight laying/meat chickens. Roosters and chicken breeding are prohibited. Cockerels must be culled from broods when identified.

(D) *Chicken facilities.*

(1) A separate coop is required to house the chickens together with a reasonably satisfactory exercise yard, run, or yard fencing so as to keep chickens confined at all times. Chicken facilities must be constructed and maintained to meet the following minimum standards: located in the rear or side yard. Set back is as required by the zoning district for structures on the real property. The housing of chickens on property will require a permit and registration fee payable at City Hall.

(2) Coop construction and materials must be adequate to prevent access by rodents. Coops must be maintained in good repair. Coops or cages housing chickens shall be kept at least 20 feet from the door or window of any dwelling of an occupied structure other than the owner's dwelling. Coops and manure storage shall be kept 20 feet from streams, tributaries, ditches, storm water management facilities, drop inlets, or other storm drainage areas that would allow fecal matter to enter any city storm drainage system or stream. Dumping chicken manure into the city's storm drainage system is prohibited.

(3) Chickens must not be housed in a residential house or an attached or detached garage, except for brooding purposes only.

(4) All premises on which chickens are kept or maintained shall be kept clean from filth, garbage, and any substances which attract rodents. The coop and its surrounding area must be cleaned frequently enough to control odor. Manure and coop waste shall not be allowed to accumulate in a way that causes an unsanitary condition or causes odors detectible on another property. Manure and coop waste that is not composted or immediately spread as fertilizer must be secured and double bagged in solid waste bags and kept in a solid waste container. Chickens shall not be kept in such a manner as to constitute a nuisance to the occupants of adjacent property.

(5) Except for chickens properly slaughtered for consumption, dead chickens must be disposed of within 48 hours after death. Legal forms of chicken carcass disposal include burial and off-site incineration or rendering. All slaughtering of chickens shall be conducted so as not to be visible to the public or adjacent property owners and occupants.

(6) All grain and food stored for the use of the chickens shall be kept in a rodent-proof container.

(7) Chickens shall be kept so that visibility is substantially obstructed to the traveling public or surrounding property owners.

(Prior Code, § 6-9-1) (Ord. 502, passed 8-7-2017)

§ 91.03 NOTICE AND ORDER OF VIOLATION.

(A) Whenever an authorized city official determines that there has been a violation of this code or has grounds to believe that a violation has occurred, notice and order shall be given to the owner of the property where the violation is occurring, and/or the person(s) responsible for the property.

(B) Such notice and order shall:

(1) Be in writing;

(2) Include a description of the property where the violation is occurring, sufficient for identification;

(3) Include a statement of the violation(s);

(4) Include an order to correct the violation and bring the property into compliance with the provisions of this code within a specified, reasonable amount of time. Notice and order to cut weeds and grasses may be given at the beginning of or during the growing season and shall require the owner or person(s) responsible for the property, within seven days after the mailing thereof and at all times subsequent during the growing season as may be necessary, to cut and remove all weeds and grasses as described in § 91.02;

(5) Inform the property owner or other persons responsible of his, her, or their right to appeal; and

(6) Notice shall be deemed to be properly served if a copy thereof is:

(a) Delivered in person;

(b) Sent by certified or first-class mail to the last known address of the owner or occupant; or

(c) If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous

place on or about the property where the violation is occurring.

(Prior Code, § 6-9-2)

§ 91.04 EMERGENCY ACTION WITHOUT NOTICE.

The previous action shall not apply to any nuisance that an authorized city official believes is an immediate danger to any person, in which case said official may take emergency action to abate the nuisance immediately without the notice and order described in § 91.02.

(Prior Code, § 6-9-3)

§ 91.05 ABATEMENT.

If the person so notified and ordered as set forth in §91.02 fails to correct the condition as required in the notice and order within the time specified, an authorized city official may cause the condition to be abated by initiating whatever actions are necessary to correct the condition and cause it to be in compliance with this code. Any expense incurred by the city in the abatement of a nuisance may be recovered through civil suit or through the special assessment against the property. The remedy of abatement shall be in addition to all other remedies available.

(Prior Code, § 6-9-4)

§ 91.06 APPEALS.

Any notice and order issued under this article may be appealed to the City Council. Such appeal shall be made in writing within ten days of issuance of the notice and order and filed with the City Finance Officer. Such appeals shall be scheduled for the next City Council meeting and considered at that time. Any action to abate shall be stayed until the City Council makes its determination. Any appeals of the City Council's decision shall be made to the Circuit Court of record within 30 days.

(Prior Code, § 6-9-5)

PUBLIC NUISANCES

§ 91.20 DEFINITION; REMEDY.

(A) *Definition.* For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

PUBLIC NUISANCE. Consists in unlawfully doing an act, or omitting to perform a duty, within the corporate limits of the city or in any public grounds or parks belonging to the city or within one mile of the corporate limits of the city, which act or omission either:

- (1) Annoys, injures, or endangers the comfort, repose, or safety of others;
- (2) Offends decency;
- (3) Unlawfully interferes with, obstructs, or tends to obstruct, or renders dangerous for passage any lake or navigable river, bay, stream, canal, or basin or any public park, square, or highway; or
- (4) In any way renders other persons insecure in life, or in the use of property, or which 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.

(B) *Remedies.* The remedies against a public nuisance shall be those prescribed by SDCL 21-10-5, or by other statute.

(Prior Code, § 8-7-1)

Cross-reference:

Additional nuisances, see Title 13

CHAPTER 92: PROPERTY MAINTENANCE

Section

Weeds

- 92.01 Duty of owner
- 92.02 Notice to destroy weeds
- 92.03 Action upon noncompliance
- 92.04 Costs recovered

Unfit Property; Abandoned Property

- 92.15 Maintenance of buildings and premises
- 92.16 Sanitation of buildings and premises
- 92.17 Enforcement and abatement
- 92.18 Issuance of notice to abate
- 92.19 Failure to abate
- 92.20 Abatement by state law
- 92.21 Cost assessment and collections of costs incurred
- 92.22 Abandoned property; removal and storage
- 92.23 Sale of unclaimed abandoned property
- 92.24 Sale proceeds credited to General Fund of city

- 92.99 Penalty

WEEDS

§ 92.01 DUTY OF OWNER.

Permitting weeds to grow to maturity on any private property, including vacant lots, is hereby declared to be a nuisance. 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, shall permit to grow, lie, or be located 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.

(Prior Code, § 6-10-1) Penalty, see § 92.99

§ 92.02 NOTICE TO DESTROY WEEDS.

The City Council shall notify, in writing, the owner, agent, or occupants to cut, destroy, or remove any such weeds, grass, deleterious or unhealthful growths, or other noxious matter found growing, lying, or located on such property or upon the sidewalk abutting same. Notice shall be certified mail addressed to said owner, agent, or occupant at his or her last known address.

(Prior Code, § 6-10-2)

§ 92.03 ACTION UPON NONCOMPLIANCE.

Upon failure, neglect, or refusal of any owner, agent, or occupant so notified to comply with such notice within a period not less than two days after personal receipt or ten days after the mailing date thereof, the City Council may provide for the cutting, destroying, or removal of such weeds, grass, or deleterious matter or other noxious growths and defray the cost of the destruction thereof by special assessment against the property.

(Prior Code, § 6-10-3)

§ 92.04 COSTS RECOVERED.

(A) The Finance Officer shall cause an account to be kept against each lot for the destruction of noxious weeds upon said lot as herein provided and shall, after completion of the work, bill the owner of the property for such work and, if not paid within 30 days thereafter, the Finance Officer shall thereupon add such assessment to the general assessment against said property. The Finance Officer shall certify such special assessment together with the regular assessment to the County Auditor to be collected as municipal taxes for general purposes.

(B) Said assessment shall be subject to review and equalization the same as assessments or taxes for general purposes. In lieu of special assessment, the City Council may institute a civil action against the owner or occupant of such property to recover said account.

(Prior Code, § 6-10-4)

UNFIT PROPERTY; ABANDONED PROPERTY

§ 92.15 MAINTENANCE OF BUILDINGS AND PREMISES.

(A) It shall be unlawful for any person owning, leasing, occupying, or having charge of possession of any buildings or premises in the city to keep or maintain such buildings or premises in a manner which is at variance with, and inferior to the level or maintenance of surrounding properties.

(B) The following condition or conditions constitutes such a variance and are hereby declared a public nuisance:

- (1) Buildings which are or appear to be abandoned, boarded up, partially destroyed, or partially constructed and uncompleted subsequent to the expiration of the building permits;
- (2) Buildings with deteriorating or peeling paint that allows the exterior building coverings to deteriorate or permit the effects of sun and water penetration so as to encourage decay, dry rot, warping, and cracking;
- (3) Buildings with broken windows, doors, attic vents, and under floor vents;
- (4) Overgrown vegetation over ten inches, excluding agricultural land in the city, which is unsightly and/or likely to harbor rats or vermin;
- (5) Dead, decaying, or diseased trees, weeds, and other vegetation;
- (6) Abandoned, discarded, or unused furniture, stoves, refrigerators, sinks, toilets, cabinets, or other household fixtures or equipment stored so as to be visible at ground level from a public alley, street, or adjoining premises;
- (7) Unlicensed, abandoned, wrecked, dismantled, or inoperative trailers, campers, boats, and other motor vehicles which are accumulated and stored in yards;
- (8) Building exteriors, walls, fences, driveways, or walkways which are cracked, broken, defective, or deteriorated, in disrepair, or defaced; and
- (9) Any like or similar condition or conditions.

(Prior Code, § 6-12-1) Penalty, see § 92.99

§ 92.16 SANITATION OF BUILDINGS AND PREMISES.

(A) It shall be unlawful to permit by act or omission the following specific acts, conditions, and things which are hereby declared to be public nuisances:

- (1) Failing, refusing, or neglecting to keep sidewalk, if such exists, in front of a house, place of business, or premises in a clean and safe condition;
- (2) Maintaining upon such premises any unsightly, partly complete, or partly destroyed buildings, structures, or improvements in the city which may endanger or injure neighboring properties or the public health, safety, and general welfare; and
- (3) Maintaining upon such premises or upon the sidewalk abutting or adjoining such lot, parcel, tract, or piece of land, loose earth, mound of soil, fill material, asphalt, concrete, rubber of waste material of any kind (all such materials shall hereinafter be referred to as "waste materials"), 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 the premises wherein the waste material exist, to maintain weed control during construction and to level or remove waste materials after construction is completed, or in any event, within six months from the time of the placement of waste materials upon premises.

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

(Prior Code, § 6-12-2) Penalty, see § 92.99

§ 92.17 ENFORCEMENT AND ABATEMENT.

(A) Any Council member or elector of the city can bring a complaint to the City Council, in writing, that there exists within the city limits a building or structure that constitutes as dilapidated or nuisance property within the meaning of this subchapter.

(B) Upon receipt of the complaint, the City Council may set a date and time for a hearing to determine the condition of the building, structure, or property and the action to be taken.

(C) The last owner of record at the County Register of Deeds and, if different, the person who receives the tax notice from the County Treasurer shall be given at least 14 days' notice by certified mail of the date, time, and place of said hearing. At that hearing, the Council and Mayor shall hear testimony and take evidence as to the condition of the building or structure.

(D) Whenever necessary to make an inspection to enforce as to the provisions of this chapter, or whenever the City Council or its authorized representative has reasonable cause to believe there exists in any building or upon any premises, any condition which is prohibited under this subchapter, that Building Official, Council member, or authorized representative may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the City Council by this subchapter. If such building or premises is occupied, he or she shall first make reasonable effort to locate the owner or other person having charge of such premises and show proper credentials and demand entry. If such entry is refused, that authorized representative shall have recourse of every remedy provided by law to secure entry.

(E) No owner or occupant or any other person having charge or care of any building or premises shall fail or neglect, after proper demand made as hereby provided, to properly permit entry therein by that Council member or their authorized representative for the purpose of inspection and examination pursuant to this chapter.

(Prior Code, § 6-12-3)

§ 92.18 ISSUANCE OF NOTICE TO ABATE.

(A) If at the hearing, held pursuant to §92.03, the City Council determines that a nuisance exists, the city shall have cause to give notice to abate the unlawful condition or conditions existing on the premises.

(B) Such notice shall be in writing to the person creating, permitting, or maintaining such nuisance to abate the same within a reasonable time as provided in such notice as follows.

(1) If the Council has determined that the building or structure must be repaired, the order shall require that all required permits be secured therefor and the work physically commenced with such time not to exceed 30 days from the date of the order and completed within such time as the City Council shall determine is reasonable under all of the circumstances.

(2) If the Council has determined that the building or structure must be vacated, the order shall require that the building or structure shall be vacated within a certain time from the date of the order as determined by the Council to be reasonable.

(3) If the City Council has determined that the building or structure must be demolished, the order shall require that the building be vacated within such time as the Council shall determine reasonable (not to exceed 60 days from the date of the order). The order shall also require that all necessary permits be secured thereof within 60 days from the date of the order and that the demolition be completed within such time as the Council shall determine reasonable.

(Prior Code, § 6-12-4)

§ 92.19 FAILURE TO ABATE.

(A) In the event a person shall fail to abate any nuisance permitted or maintained by him or her following written notice to him or her to do so, the City Council or the authorized representative shall cause such nuisance to be abated.

(B) (1) The Finance Officer shall prepare a statement of expense incurred in the razing, demolishing, removing, reconstruction, or other affirmative act necessary to abate the unlawful condition and shall file such statement with the Finance Officer.

(2) Such abatement shall refer to the particular premises, including any improvements, structures, or buildings thereon, upon which the actions taken to abate the unlawful condition occurred.

(3) With regard to the premises of each piece of property therein referred to, the statement shall show the legal description in which the lot lies.

(Prior Code, § 6-12-5)

§ 92.20 ABATEMENT BY STATE LAW.

In addition to the method of abatement of nuisances provided in this chapter, the city may abate any nuisance found within the city in the manner provided by the state law or recover the expense so incurred from the person maintaining such nuisance in a civil suit instituted for such purpose.

(Prior Code, § 6-12-6)

§ 92.21 COST ASSESSMENT AND COLLECTIONS OF COSTS INCURRED.

The Finance Officer is hereby authorized to bill the expense incurred from the abatement and, if payment is not received within 90 days, the Finance Officer is authorized to send a copy of the bill to the County Treasurer's office for collection through taxes, and, if county taxes are currently delinquent at the time of filing, the Finance Officer is hereby instructed to pursue the collection through a civil suit to collect debt incurred against that delinquent tax property.

(Prior Code, § 6-12-7)

§ 92.22 ABANDONED PROPERTY; REMOVAL AND STORAGE.

Any automobile, vehicle, or other personal property which has been abandoned for 60 days upon the streets, alleys, or other public places, shall be taken into possession by the city and shall be stored at such location as shall be designated by the City Council for a period of at least 90 days, during which time the owner or owners may redeem such property upon paying the cost of removal and storage.

(Prior Code, § 6-12-8)

§ 92.23 SALE OF UNCLAIMED ABANDONED PROPERTY.

If such personal property be not reclaimed within the 90-day period, the abandoned property may be sold by the city at public auction, at such location as may be determined by the City Council, after publishing, at least ten days prior to the date of such sale, a notice describing the property to be sold and the place of such sale.

(Prior Code, § 6-12-9)

§ 92.24 SALE PROCEEDS CREDITED TO GENERAL FUND OF CITY.

Immediately after such sale, the person making such sale shall file a report thereof with the Finance Officer and the proceedings of such sale shall be deposited with the City Finance Officer and credited to the General Fund of the city.

(Prior Code, § 6-12-10)

§ 92.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Any person whose duty it is to destroy or remove such noxious weeds or unhealthful vegetation as set forth in §§ 92.01 to 92.04 or who fails to destroy same within the time hereinbefore set forth shall, upon conviction thereof, be subject to the penalties established in §§ 92.01 to 92.04, in addition to any other penalties as prescribed in this chapter.

(Prior Code, § 6-10-5)

(C) Any person who shall violate any of the provisions of §§92.15 to 92.24 shall be subject penalties set in §10.99.

(Prior Code, § 6-12-7)

CHAPTER 93: STREETS AND SIDEWALKS

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ABANDONMENT OF VEHICLES

§ 93.001 DEFINITIONS.

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

PERSON. Any person, firm, partnership, association, corporation, company, or organization of any kind.

PROPERTY. Any real property within the city which is not a street or highway.

STREET or HIGHWAY. The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

VEHICLE. A machine propelled by power other than human power designed to travel along the ground by use of wheels, treads, runners, or slides and transport persons or property or pull machinery and shall include, without limitation, automobile, truck, trailer, motorcycle, or tractor.

(Prior Code, § 8-6-1)

§ 93.002 ABANDONMENT OF 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.

(Prior Code, § 8-6-2) Penalty, see § 93.999

§ 93.003 DETERMINATION OF ABANDONMENT.

Whenever any vehicle is left unattended on any public street, alley, public place, or parking lot within the city for longer than 24 hours without approval of the Chief of Police where such vehicle is parked, it shall be deemed to be an abandoned vehicle and subject to provisions of this chapter.

(Prior Code, § 8-6-3)

§ 93.004 LEAVING OF WRECKED, NON-OPERATING VEHICLE ON STREET.

No person shall leave any partially dismantled, non-operating, wrecked, or junked vehicle.

(Prior Code, § 8-6-4) Penalty, see § 93.999

§ 93.005 DISPOSITION OF WRECKED OR DISCARDED VEHICLES.

No person in charge or control of any property within the city, whether as owner, tenant, occupant, lessee, or otherwise, shall allow any partially dismantled, non-operating, wrecked, junked, or discarded vehicle to remain on such property longer than ten days; and no person shall leave any such vehicle on any property within the city for a longer time than ten days; except that this subchapter 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.

(Prior Code, § 8-6-5) Penalty, see § 93.999

§ 93.006 DISPOSAL OF ABANDONED VEHICLES.

The Chief of Police or any member of his or her Department designated by him or her is hereby authorized to remove or have removed any vehicle left at any place within the city which reasonably appears to be in violation of this subchapter or lost, stolen, or unclaimed. Such vehicle shall be impounded until lawfully claimed or disposed of in accordance with SDCL 32-36-8, a Chief of Police shall give notice to the owner and lien holders after removal pursuant to state law.

(Prior Code, § 8-6-6)

§ 93.007 LIEN FOR COSTS.

The Police Department, or whomever is designated by the Chief of Police to provide storage to the abandoned vehicle, shall have a possessory lien upon any vehicle removed under the provisions of this subchapter for the costs in taking custody of and storage of such vehicle.

(Prior Code, § 8-6-7)

§ 93.008 RECOVERY BY OWNER OR LIEN HOLDER.

The registered owner or lien holder of any vehicle removed and stored under the provisions of this article may recover the same upon the payment of all costs incident to the removal and storage of such vehicle.

(Prior Code, § 8-6-8)

§ 93.009 WHEN TITLE MAY VEST IN CITY.

If after six months from the mailing date of notice of removal and storage provided for by this subchapter, the vehicle shall remain unclaimed, the title to such vehicle may be vested in the city, and such vehicle may be disposed of in any manner as may be provided by the City Council. The proceeds of any such disposal shall first be applied to the costs incurred in the enforcement of this subchapter with the balance to be deposited to the General Fund of the city.

(Prior Code, § 8-6-9)

§ 93.010 TITLE MAY VEST IN CITY; NOTICE TO THE COMMISSIONER OF VEHICLES.

Within 30 days after acquiring title to any vehicle under the provisions of this subchapter, the city shall notify the

Commissioner of Motor Vehicles thereof and shall provide the Commissioner all facts and information relevant thereof of as he or she may require. Upon receipt thereof, the Commissioner shall appropriate mark the title and registration records and notify the owner of the records at his or her last known address of the actions taken.

(Prior Code, § 8-6-10)

§ 93.011 SALE OF UNCLAIMED VEHICLE.

(A) After three months from the date of mailing the notice of removal and storage provided by for this subchapter the vehicle shall remain unclaimed, such vehicle may be sold by the Police Department at public auction upon notice to be published in newspaper of general circulation in the county not less than once a week for two consecutive weeks.

(B) The notice of sale provided by this subchapter shall contain a description of the removal and stored vehicle, including the year, make, model, serial number, color, license number, if any, a statement that the vehicle was found abandoned, the date thereof, the place, date, and time of which such vehicle shall be sold, which date shall not be sooner than one week following the date of the last publication of notice of sale.

(Prior Code, § 8-6-11)

NAMES OF STREETS AND AVENUES

§ 93.025 PLATS ADOPTED.

Those plats indicating the names of streets and avenues of the city, now on file in the office of the County Register of Deeds, are hereby incorporated as a part of this subchapter.

(Prior Code, § 11-1-1)

§ 93.026 OFFICIAL MAP.

The official map of the city shall be those maintained in the office of the County Register of Deeds.

(Prior Code, § 11-1-2)

§ 93.027 NAMES OF THE STREETS AND AVENUES.

The official names of the streets and avenues in the city shall be those as shown on the official map or maps maintained in the office of the County Register of Deeds.

(Prior Code, § 11-1-3)

SIDEWALKS

§ 93.040 SUPERVISION OF SIDEWALK AND CURBING 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 direct supervision of agents and all such sidewalks shall be constructed on the grades as determined by the said city.

(Prior Code, § 11-2-1)

§ 93.041 SPECIFICATIONS.

The construction of all sidewalks and curbing, whether to be done by direct contract with the city or by contract with the abutting property owners, shall be done strictly in accordance with the specifications for sidewalks and curbing adopted by the Council and on file in the office of the Finance Officer. The Council shall have full power to condemn work and material not in accordance with the requirements of said specifications.

(Prior Code, § 11-2-2)

§ 93.042 WIDTH OF SIDEWALKS.

The width of the sidewalks in the residential districts shall be five feet and the width of sidewalks in the business district shall be eight feet.

(Prior Code, § 11-2-3)

§ 93.043 PROPERTY OWNER RESPONSIBLE FOR SIDEWALK REPAIR.

It shall be the duty of the person in possession of any lot, parcel, or plot of ground fronting or abutting upon any sidewalk, to keep such a sidewalk in repair as provided by SDCL 9-46-2.1 through 9-46-4.2.

(Prior Code, § 11-2-4)

§ 93.044 CONSTRUCT, REBUILD, REPAIR OF SIDEWALK.

When the City Council deems it necessary to construct, rebuild, or repair any sidewalk in the city, it shall notify the owners of lots adjoining the sidewalks to construct, build, or repair the sidewalk at his or her own expense with a designated time.

The written notice shall be served personally or by certified mail, return receipt, or by publication, once in each week for two consecutive weeks. If the sidewalk is not constructed, reconstructed, or repaired in a manner or within the time prescribed in the notice, the City Council may cause the work to be done by the hour or by the job, assess the cost of the work against the lots fronting or abutting upon the sidewalk as provided by SDCL 9-46-4 through 9-46-9.

(Prior Code, § 11-2-5)

§ 93.045 CONSTRUCTION REQUIREMENTS.

All sidewalks being replaced or of new construction shall have curb cuts and comply with all regulations promulgated under the Americans with Disabilities Act, being 42 U.S.C. §§ 12101 et seq.

(Ord. 368, passed 6-6-1994)

§ 93.046 CURB AND GUTTER CONSTRUCTION.

(A) In addition to the construction of new curbs and gutters on any streets within the city, there shall be curbs and gutters in all commercial industrial areas within the city, and, in any new residential areas, there shall be curbs, gutters, and sidewalks and water and sewer service shall be studded on to the property.

(B) (1) Curbs shall be single radius, vertical construction with 12-inch back, six-inch face, six-inch front abutting street, 24-inch total width, and maximum two-inch radius on bottom of curb face. New construction may have square or rounded edge on street side.

(2) It is provided that any new construction of curb or gutter which shall abut existing curbs shall have the following specifications:

(a) This exception shall only apply to any existing curb or gutter construction prior to 1967; and

(b) The specifications of the aforementioned curbs and gutters shall be on file at the office of the City Auditor of the city and may be only changed by ordinance of the governing body.

(Ord. 375, passed 6-5-1995; Ord. 385, passed 9-2-1997)

SNOW REMOVAL

§ 93.060 DUTY OF OWNER OR OCCUPANT.

It shall be the duty of the owner, occupant, or person in possession or in charge of any lot, parcel, or plot of ground or residential property fronting or abutting upon any sidewalk to keep such sidewalk free and clear from snow and ice within 24 hours after any fall of snow and it shall be the duty of the owner, occupant, or person in possession or in charge of any lot, parcel, or plot of ground of business property located within a commercial district, fronting or abutting upon any public sidewalk, to keep such sidewalk free and clear from snow and ice at all times. When it is impossible to take snow and ice from such walk because it is frozen to the sidewalk, the owner, occupant, or person in possession or in charge of such lot shall sprinkle or spread such suitable material upon the same to prevent the walk from becoming slippery and dangerous to travel, and in removing snow from said sidewalk it shall be unlawful for any person to shovel or blade the snow so removed into the street after the street has been cleared of snow by the city snow removal equipment. All power cords crossing sidewalks must be kept a minimum of eight feet above the ground.

(Prior Code, § 11-3-1) Penalty, see § 93.999

§ 93.061 DUTY OF CITY FOREMAN.

It shall be the duty of the City Foreman to notify all owners or persons in possession of property abutting on sidewalks in the city to keep such sidewalk free from snow and ice, and remove the same within 24 hours after every fall of snow. Such notice need not be given personally, but may be given generally by one publication in the official newspaper of the city; which notice shall state that each owner or person in possession is required to keep the sidewalks on which their property or premises abut free and clear from snow and ice.

(Prior Code, § 11-3-2)

§ 93.062 REFUSAL TO REMOVE SNOW AND ICE.

If the owner or person in possession of said premises fails or refuses to remove the snow and ice after every fall of snow from such sidewalks within the time above specified, the City Foreman may have the snow and ice removed and charge the costs thereof against the abutting property each time the snow is so removed.

(Prior Code, § 11-3-3)

§ 93.063 ACCOUNT TO BE KEPT FOR THE REMOVAL OF SNOW AND ICE.

The City Foreman shall cause an account to be kept against each lot or parcel of land for the removal of snow from the sidewalk and the same shall be certified to the Finance Officer on or before April 15 of each year. The Finance Officer shall prepare an estimate of the assessment against each lot or parcel of land for removal of snow for the preceding winter and fall, and submit the same to the City Council for its approval at or before its first meeting in June, and shall publish in the

official newspaper of the city a notice to property owners of the time and place when the City Council will meet for the purpose of approving such estimates. Upon the day so named, the City Council shall meet, and if it finds said estimates correct, shall approve the same, or if not correct, it shall correct or modify the same and approve the same as corrected and modified, and file such assessment with the City Finance Officer. From the date of such approval and filing, the assessment shall become a special lien against the various pieces of property described in said assessment, and shall be collected in like manner as special assessments now collected for public improvements.

(Prior Code, § 11-3-4)

TREES IN PUBLIC PLACES

§ 93.075 TRIMMING TREES.

The occupant of any private premises, or the owner of the same if not occupied, abutting on any public street, road, or alley within the city shall keep all trees standing upon such premises, or between the same and the center of adjoining street, road, or alley so trimmed that no bough or branches thereof shall be lower than ten feet above the surface of the sidewalk, no bough or branches thereof shall be lower than 16 feet above the surface of the street, road, or alley; provided that upon the failure of any occupant or owner to trim such trees as in this section provided, the City Council shall have authority to remove or cause to be removed under its provisions any trunk, limb, or branch of any tree that is, or in the judgment of said Council, which shall extend or hang lower than ten feet above surface of any walkway or sidewalk, 16 feet above surface of any street, road, alley, whether such trees be growing on privately-owned property, and may cause the same to be trimmed and charged the expense thereof to the occupant or owner of such property.

(Prior Code, § 11-4-1)

§ 93.076 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. No tree shall be placed so as, in the opinion of the City Council, to cause a traffic hazard. No tree shall be planted where the clear space between the curb and the sidewalk is less than three feet. No tree shall be planted where the soil is too poor to ensure the growth of such tree unless the owner excavates a suitable hole of not less than 36 cubic feet and replaces the material removed with suitable loam, or soil stripped from pastureland. Where overhead power lines or other obstructions are located in the public right-of-way and street trees are desired, ornamental street trees may be used. Trees are not permitted within 35 feet of a corner intersection, as measured from the property corner.

(Prior Code, § 11-4-2)

§ 93.077 INJURING TREES.

It shall be unlawful for any person to injure any tree, herb, or shrub planted in any public place by physical means, use of herbicides, or any means whatsoever, nor shall any person remove or cut down any tree, hedge, or shrub in any such public place without first having secured a permit from the Mayor to do so.

(Prior Code, § 11-4-3) Penalty, see § 93.999

§ 93.078 GUIDEWIRES.

It shall be unlawful for any person to attach any wire or rope to any tree in a public place without having a permit from the Mayor to do so.

(Prior Code, § 11-4-4) Penalty, see § 93.999

§ 93.079 PUBLIC SERVICE CORPORATION.

Any person, company, or firm having the right to maintain wire, cables, and poles in the public street and alleys and other public places, must keep the before mentioned wire and cables and poles free from and away from any trees or shrubs in such places so far as it may be possible, and shall keep all such trees and shrubs trimmed away from said poles and wire subject to the supervision of the Mayor; and in asking excavations in streets or other public places for underground services or the repair thereof, said person, company, or firm shall take proper care to avoid injury to the roots of any tree, hedge, or shrub.

(Prior Code, § 11-4-5)

§ 93.080 APPEAL.

Any person affected or grieved by any decision of the Mayor shall file a petition before the City Council, which shall within two days either affirm or modify the decision of the Mayor.

(Prior Code, § 11-4-6)

§ 93.081 TREES AND GRASS PLOTS.

It shall be unlawful for persons owning or occupying lots or parcels of land within the city to embellish the same by planting

shade trees within the limits of the street adjoining such premises; provided, that such shade trees are planted between the sidewalk and the gutter; also to make and keep in order lawns and grass plots between the sidewalk and curbing, and any person who shall injure such trees or any of them, or any shade trees now growing within the limits of any street, or any grass plot or lawn which may have been planted or made in conformity with this section, or any shade tree, shrub, flower, or plant growing in any private or public grounds within the city, or cause the same to be injured by grading, breaking, tearing, cutting, picking, tying animals thereto, or in any manner, shall be subject to the penalties in this subchapter.

(Prior Code, § 11-4-7) Penalty, see § 93.999

§ 93.082 COTTONWOOD TREES.

No female cottonwood trees are allowed within the city limits.

(Prior Code, § 11-4-8) Penalty, see § 93.999

USE OF STREETS AND PUBLIC PLACES

§ 93.095 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 wagon, automobile, cart, truck, sleigh, or other vehicle except when the same shall be in actual use; nor shall any person place, leave, or keep on any public street, road, alley, sidewalk, or other public ground of 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.

(Prior Code, § 11-5-1) Penalty, see § 93.999

§ 93.096 MATERIALS IN STREETS, PERMITS.

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

(Prior Code, § 11-5-2)

§ 93.097 CLEANING STREETS OR SIDEWALKS OF RUBBISH.

Every person to whom permission may be granted, as provided in §93.096, to keep and place building material in the street, road, or alley, shall cause all such material and the rubbish resulting therefrom to be removed from such sidewalk, street, road, or alley at the expiration of the time limited in the permit, unless the time shall for good cause be extended by the Council; and any person depositing and keeping any building material on such sidewalk or in such street, road, or alley shall there remain, keep one or more lighted lanterns or flares so placed that such material may be easily seen by persons passing along such sidewalk, street, road, or alley.

(Prior Code, § 11-5-3)

§ 93.098 EXCAVATION NEAR STREET.

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

(Prior Code, § 11-5-4) Penalty, see § 93.999

§ 93.099 BUILDING IN STREET.

No person shall erect or maintain any building in such a position that the same shall stand in whole or in part upon any public street, road, alley, or sidewalk in said city, or so constructed that any part of the building proper shall project into or over such street, road, alley, or sidewalk; provided that jut windows, cornices, and other projections from the buildings above the first story may extend over an adjoining street, road, alley, or sidewalk, not exceeding 18 inches; and no person shall construct any step, area, or other appurtenance to any building extending over or upon the sidewalk, nor shall any person erect in any public street or road any flight of stairs or step leading to any floor of any building.

(Prior Code, § 11-5-5) Penalty, see § 93.999

§ 93.100 EAVE PIPES.

No person shall place or maintain any pipe leading from the eaves of any building or any part of any building in said city in such a position that the water discharged from the roof of said building will flow upon or over any public sidewalk in the said city.

(Prior Code, § 11-5-6) Penalty, see § 93.999

§ 93.101 GARBAGE IN STREETS.

It shall be unlawful for any person, firm, or corporation to throw or deposit any ashes, offal, dirt, garbage, decaying vegetables, meat, fish, manure, filthy water, slops or any other offensive or putrid material or thing into or upon any street, avenue, land, alley, or public ground within the corporate limits of the city or into any stream of water within the limits of said city of forming the boundaries thereof.

(Prior Code, § 11-5-7) Penalty, see § 93.999

§ 93.102 ANIMALS AND VEHICLES ON SIDEWALKS.

No person shall drive, ride, or lead any horse or mule or drive or lead any cow or any other animal upon any public sidewalk in the city, or draw or propel or cause to be drawn or propelled thereon any vehicle ordinarily drawn by horses; or drive or operate, cause to be driven or operated, any motor vehicle upon any sidewalk in said city, except that the same may be driven across any sidewalk in entering or leaving the premises.

(Prior Code, § 11-5-8) Penalty, see § 93.999

§ 93.103 USE OF STREETS FOR SALE OF VEHICLES AND THE LIKE.

No person shall display for sale any vehicle or other personal property upon any of the streets or avenues in the city.

(Prior Code, § 11-5-9) Penalty, see § 93.999

EXCAVATION IN PUBLIC PLACES

§ 93.115 PERMIT REQUIRED.

No person shall make or cause to be made any excavation in or under any street, parking, sidewalk, alley, or public ground, or remove any earth, soil, paving, gravel, or material therefrom without having first obtained a permit therefor as hereinafter provided.

(Prior Code, § 11-6-1)

§ 93.116 APPLICATION.

(A) Application for such permit shall be made to the Finance Officer. Such application shall be accompanied by a fee of an amount set by the City Council and on file at the office of the Finance Officer, which amount shall be considered compensation to the city for the granting of such permit and the necessary investigation prior thereto.

(B) Before any such permit is issued, the person requiring the same shall state in this application therefor where such excavation is to be made, the extent thereof, in front of what lot or lots, and for what purpose excavation is to be made.

(Prior Code, § 11-6-2)

§ 93.117 SUPERVISION OF EXCAVATIONS.

The City Foreman shall supervise all excavations made for any purpose in the streets, alleys, or public ground and he or she shall require that all excavations be backfilled in the manner specified.

(Prior Code, § 11-6-3)

§ 93.118 GUARDING EXCAVATIONS.

Any person receiving a permit to make excavations in or upon 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 persons, animals, or vehicles on account of such excavations. Such flares shall be kept lighted from sundown until sunrise.

(Prior Code, § 11-6-4)

§ 93.119 REFILLING EXCAVATIONS.

(A) Any person making such excavation shall, when the same shall be completed, promptly and without delay, refill the same as herein provided.

(B) In refilling any excavation, the earth shall be thoroughly settled as the refilling progresses by using water to compact the earth; the earth shall be thoroughly tamped in successive layers of approximately six inches, in such a manner that all the earth shall be replaced in the excavation leaving the surface in its original condition.

(C) In making connection to fire hydrants for flushing excavations, all rules and regulations relating thereto shall be observed.

(D) In all cases where excavations are made in the paved district, the earth shall be replaced in the manner above specified, and the pavement shall be replaced by the city.

(Prior Code, § 11-6-5)

§ 93.120 CUTTING PAVEMENTS.

Where it is necessary to cut the street pavement in making any street excavation, an amount determined by multiplying the number of square yards of pavement to be removed by the per square yard charged of an amount set by the City Council and on file at the office of the Finance Officer. The amount will be charged to the property owner.

(Prior Code, § 11-6-6)

§ 93.121 EXCAVATIONS NEAR STREETS.

It shall be unlawful for any person, owner, or occupant of any lot to make or cause to be made any excavation on said lot adjacent to any street, alley, public ground, or traveled road, or roadway, except the same be securely guarded so as to prevent the injury of any person or animal passing upon or along the same.

(Prior Code, § 11-6-7) Penalty, see § 93.999

§ 93.122 OPERATING IN SIDEWALKS.

It shall be unlawful to make, cause to be made, or maintain any opening in any sidewalk for the purpose of providing light for a basement or cellar or for ventilating the same, unless such opening shall be guarded with a substantial railing of iron not less than three feet high, or with a substantial iron grating or other strong substantial cover, the grates of which shall not be more than one inch apart. No railing or grate shall occupy more than two feet of the sidewalk, measuring from the inner side thereof.

(Prior Code, § 11-6-8) Penalty, see § 93.999

§ 93.123 EXCAVATIONS UNDER SIDEWALKS.

Any person having or erecting any building abutting upon any street, avenue, or alley in the city, may excavate under the sidewalk to the curb for any purpose of constructing a cellar or basement under the sidewalk in front of or adjoining said building; provided, that said excavation shall be surrounded upon the outer side and ends thereof with a substantial wall, to be approved by the Building Committee, sufficient to maintain the said sidewalk. The plan of said sidewalk shall be approved by the Building Committee; and provided further, the permission to make such excavations and to construct such sidewalk shall be first obtained from the Finance Officer. The excavation shall be securely guarded by barricades at all times and one or more lighted lanterns in the nighttime, so long as the same shall remain open.

(Prior Code, § 11-6-9)

§ 93.124 CURB AND GUTTER.

(A) No person shall construct or cause to be constructed or installed in, on, or along side any city street a curb and gutter without first obtaining a permit to do so from the City Finance Officer.

(B) A permit may be granted only if the following specifications shall be met.

(1) The curb and gutter shall be concrete (the form to be approved by the City Foreman) with a minimum compressive strength of 4,000 PSI, 24 inches in width and depth of six inches for the gutter section, with a minimum gravel cushion of four inches under the curb and gutter with expansion joints every 20 feet with expansion filler.

(2) No curb and gutter can be installed unless one continuous curb and gutter is installed at the same time from the corner of a corner lot to the corner of the opposite corner lot with a continuation of the curb and gutter around each corner lot with concrete fillets on each corner adjacent to the intersection of each street involved, which corner intersection shall have handicap accessible ramps whether or not there are interesting sidewalks adjacent to the curb and gutter.

(3) Before installation of the curb and gutter, the involved property owners must have the curb and gutter line surveyed and staked to ensure proper slope of the curb and gutter in relationship to the appropriate storm drains on the intersecting streets, the grade of the street, and present or future sidewalks.

(4) All labor and materials shall be the sole responsibility of the individual land owners affected by the installed curb and gutter.

(5) The city assumes no liability or responsibility for or from the curb and gutter installation. The land owners involved shall accept full responsibility and liability for and from the installation of the curb and gutter.

(Prior Code, § 11-6-10) Penalty, see § 93.999

§ 93.999 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Any person violating any of the provisions of §§ 93.001 to 93.011 shall be deemed guilty of a Class 2 misdemeanor. Each day such violation is committed or is permitted to continue shall constitute a separate offense and shall be punished as

such hereunder. A fine will be imposed and is on file in the finance office.

(Prior Code, § 8-6-12)

(C) Any person who fails to remove such snow, as provided for in §§93.060 to 93.063, shall be subject to the penalties in §§ 93.060 to 93.063, and, in addition thereto, shall be liable to the municipality for any damage caused by the neglect to keep such sidewalk clear and free of snow and ice as provided in this chapter.

(Prior Code, § 11-3-5)

CHAPTER 94: FIRE PREVENTION

Section

Adoption of International Fire Code

- 94.001 Adoption of Fire Prevention Code
- 94.002 Enforcement
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- 94.020 Hindering firefighters and injuring fire apparatus
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- 94.035 Duties of the Chief
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Hazardous Materials and Petroleum Products

- 94.050 Definitions
- 94.051 Districts which allow storage of petroleum products and hazardous materials
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- 94.054 Registration of hazardous materials storage tanks; contingency plans
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Fireworks, Firearms, and Explosions

- 94.070 Discharge of firearms or air rifles
- 94.071 Selling, processing, or discharging fireworks prohibited

- 94.999 Penalty

ADOPTION OF INTERNATIONAL FIRE CODE

§ 94.001 ADOPTION OF FIRE PREVENTION CODE.

(A) There is hereby adopted by the city, for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain code known as the 2018 International Fire Code, regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling, and use of hazardous substances, materials, and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises in the city; providing for the issuance of permits and collection of fees thereof save and except such portions as are hereinafter deleted, modified, or amended. A copy of the code is on file in the office of the Finance Officer of the city, and the same is hereby adopted and incorporated as fully as if set out at length herein, and from the date on which this section shall take effect (May 12, 2014), the provisions thereof shall be controlling within the limits of the city.

(B) The following sections are hereby revised: § 101.1 insert: City of Webster; § 109.4 insert: \$200, 30 days; § 111.4 insert: \$25 and \$200, respectively.

(C) That nothing in this legislation or in the Fire 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, nor shall any just or legal right or remedy of any character be lost, impaired, or affected by this legislation.

(Prior Code, § 5-1-1)

§ 94.002 ENFORCEMENT.

The code hereby adopted shall be enforced by the Chief of Police.

(Prior Code, § 5-1-2)

§ 94.003 DEFINITIONS.

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

FIRE DEPARTMENT. The Volunteer Fire Department as established and operated as the Webster Fire Department, Inc., a non-profit corporation. Firefighters or their officers are not employees or agents of the city. The Chief of the Department shall be elected and approved by the bylaws of the corporation and shall carry out the duties ascribed to him or her in those bylaws as well as the duties listed in the city codes and ordinances.

MUNICIPALITY. The City of Webster.

(Prior Code, § 5-1-3)

§ 94.004 MODIFICATIONS.

The Chief of the Fire Department shall have power to modify any of the provisions of the code hereby adopted upon application in writing by the owner or lessee, or his or her duly authorized agent, when there are practical difficulties in carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such modification, when granted or allowed, and the decision of the Chief of the Fire Department thereon, shall be entered upon the records of the Department and a signed copy shall be furnished the applicant.

(Prior Code, § 5-1-4)

§ 94.005 APPEALS.

Whenever the Chief of the Fire Department shall disapprove an application or refuse to grant a license or permit applied for, or when it is claimed that the provisions of the code do not apply or that the intent and true meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the Chief of the Fire Department to the City Council within 30 days from the date of the decision of the appeal.

(Prior Code, § 5-1-5)

CARE OF FIREFIGHTING EQUIPMENT

§ 94.020 HINDERING FIREFIGHTERS AND INJURING FIRE APPARATUS.

Any person who shall willfully hinder or delay any officer or firefighter in the performance of his or her duties or shall willfully injure, deface, or interfere with any fire apparatus shall, upon conviction thereof, be subject to the penalties established in this chapter.

(Prior Code, § 5-2-1) Penalty, see § 94.999

§ 94.021 DRIVING OVER HOSE.

Any person who shall drive any vehicle over any unprotected fire hose when laid on a street or alley to be used at any fire, or during alarm of fire, or while at practice without the consent of the Chief or such other person as may be in command, shall, upon conviction thereof, be subject to the penalties established in this subchapter.

(Prior Code, § 5-2-2) Penalty, see § 94.999

§ 94.022 INJURING TO APPARATUS.

It shall be unlawful for any person without permission of the Chief of the Fire Department to drive any wagon, cart, or other vehicle across any fire hose belonging to the city, or to destroy or otherwise damage any fire apparatus or equipment.

(Prior Code, § 5-2-3) Penalty, see § 94.999

§ 94.023 TAKING APPARATUS WITHOUT LEAVE.

No fire apparatus or equipment shall at any time upon any pretext be taken, used, or removed without permission of the Chief of the Fire Department.

(Prior Code, § 5-2-4) Penalty, see § 94.999

FIRE REGULATIONS

§ 94.035 DUTIES OF THE CHIEF.

The Chief of the Fire Department shall have direct supervision and control of all fire apparatus and equipment owned and maintained by the city for fire extinguishment or prevention, or for the public safety; and he or she shall have sole and absolute control over all persons and property connected with said Fire Department.

(Prior Code, § 5-3-1)

§ 94.036 DESTROYING BUILDINGS IN CASE OF FIRE.

The Chief of the Fire Department may direct that any building or structure may be pulled or cut down or removed, or he or she may take such other steps as he or she may deem necessary to arrest the progress of any fire.

(Prior Code, § 5-3-2)

§ 94.037 RESISTING OFFICER AT FIRE.

It shall be unlawful for any person to hinder or resist any officer or member of the Fire Department or any police officer in the discharge of his or her duties at any fire, or to conduct himself or herself in a disorderly or noisy manner at any fire, or without reasonable excuse to refuse to obey any lawful order of the Chief of Police or Chief of the Fire Department in any manner relating to the extinguishment of any fire.

(Prior Code, § 5-3-3) Penalty, see § 94.999

§ 94.038 MEDDLING WITH HYDRANTS.

It shall be unlawful for any person to meddle or interfere with any hydrant except by permission of the Chief of Police, Chief of the Fire Department, or the City Council.

(Prior Code, § 5-3-4) Penalty, see § 94.999

§ 94.039 CHARGES FOR EXTRAORDINARY CIRCUMSTANCES.

The city shall set the following rates for extraordinary services rendered by the city Fire Department when fighting fires within the city area. When the city Fire Department has responded to a fire and completed its firefighting task to contain said fire, and when the public is no longer endangered, and the owners of the property subject to the fire have requested the Fire Department to remain on the scene, then it shall charge for these services \$175 per truck per hour required to stay at the scene of the fire.

(Ord. 367, passed 6-6-1994)

HAZARDOUS MATERIALS AND PETROLEUM PRODUCTS

§ 94.050 DEFINITIONS.

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

HAZARDOUS MATERIAL. Any substance or material in quantity or form which may be harmful or injurious to humans, domestic animals, wildlife, economic crops and vegetation, or property.

HAZARDOUS MATERIAL SPILL. Any release of a hazardous material or petroleum products in the environment whenever it shall pose an unreasonable risk to health, safety, or environment.

PETROLEUM PRODUCT. Liquid petroleum fuels or lubricants.

(Prior Code, § 5-4-1)

§ 94.051 DISTRICTS WHICH ALLOW STORAGE OF PETROLEUM PRODUCTS AND HAZARDOUS MATERIALS.

Bulk storage of petroleum products in tanks of over 1,000-gallon capacity held for resale purposes and within which

hazardous materials are kept but beyond which such storage of petroleum products and hazardous materials are prohibited shall be limited to only those properties approved by the City Council and listed in the office of the City Finance Officer.

(Prior Code, § 5-4-2)

§ 94.052 REPORTS OF SPILLS.

(A) Petroleum products and hazardous materials shall be handled, transported, and stored in a safe manner.

(B) Any person in control of a hazardous material or petroleum product which is spilled shall immediately report the spill and all conditions or circumstances relevant thereto to the Chief of Police or Chief of the Fire Department.

(C) If the person in control of the hazard material or petroleum product is not immediately available or able to report the spill, then the person who either caused or is primarily involved in the spill shall report. This report requirement shall be in addition to any other federal or state report requirement.

(Prior Code, § 5-4-3)

§ 94.053 REGISTRATION OF PETROLEUM STORAGE TANKS.

All stationary containers or tanks located within the city, or any storage facility actually used or intended to be used for the storage of any petroleum product shall be registered by filing with the city all necessary information; provided, however, that only the following shall be exempt from this registration requirement:

(A) All containers, tanks, or buildings already registered pursuant to the federal "UST" program;

(B) All containers and tanks for the storage of petroleum products which are less than 350 gallons in size unless the product is gasoline, which container or tank can not exceed 55 gallons in size; and

(C) All containers and tanks for the storage of petroleum products which are less than 1,000 gallons in size, where the container or tank is located on land zoned for agriculture and where the purpose of the storage is intended to be the noncommercial use of the product by the owner of the tank.

(Prior Code, § 5-4-4)

§ 94.054 REGISTRATION OF HAZARDOUS MATERIALS STORAGE TANKS; CONTINGENCY PLANS.

(A) All stationary containers or tanks located within the city, or any storage facility actually used or intended to be used for the storage of any hazardous material shall be registered. Such registration shall be accomplished by filing a contingency plan at the office of the Finance Officer to be approved by the City Council for cleaning up and containing an accidental discharge. Proof of insurance coverage for damages and clean up of an accidental discharge must be submitted to the City Council as part of the contingency plan.

(B) Only the following shall be exempt from this registration requirement:

(1) All containers, tank, and storage facilities located on land zoned as residential; or

(2) All containers, tanks, and storage facilities located on land zoned as agricultural as long as the volume of the storage is less than 60 gallons liquid or 500 pounds solid weight.

(Prior Code, § 5-4-5)

§ 94.055 RIGHT OF ENTRY.

(A) Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever the City Council or an authorized representative has reasonable cause to believe that there exists in any building or upon any premises, any condition which is prohibited under this chapter, the city's authorized representative may enter such building or premises at all reasonable times to inspect the same or perform any duty imposed upon the city by this chapter; providing that if such building or premises be occupied, he or she shall first present proper credentials and demand entry; and if such building or premises be unoccupied, he or she shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry. If such entry is refused, the authorized representative shall have recourse to every remedy provided by law to secure entry.

(B) No owner or occupant or any other person having charge or care of any building or premises shall fail or neglect, after proper demand made as herein provided, to properly permit entry therein by an authorized representative of the city for the purpose of inspection and examination pursuant to this chapter.

(Prior Code, § 5-4-6)

§ 94.056 CONFLICT.

In the event of any conflict between the provisions of this chapter and state and federal law, state and federal law shall prevail.

(Prior Code, § 5-4-7)

§ 94.057 APPEALS.

Decisions made in enforcement of this chapter may be appealed to the City Council, which may grant a variance upon an application which demonstrates that an equivalent degree of environmental protection will be achieved under alternatives submitted by said applicant.

(Prior Code, § 5-4-8)

FIREWORKS, FIREARMS, AND EXPLOSIONS

§ 94.070 DISCHARGE OF FIREARMS OR AIR RIFLES.

It shall be unlawful for any person, except a police officer in the performance of an official act, to discharge or fire any gun, air rifle, sling shot, or other dangerous weapon within the city limits of the city.

(Prior Code, § 8-5-1) Penalty, see § 94.999

§ 94.071 SELLING, PROCESSING, OR DISCHARGING FIREWORKS PROHIBITED.

(A) It shall be unlawful for any person to sell to any person in the city or within one mile of the outer boundaries of the same, any firecrackers, cartridges, Roman candles, rockets, or other fireworks that may be made or manufactured.

(B) No person shall, in the city or within one mile of the outer boundaries of the same, discharge or shoot off any fireworks or firecrackers of any kind or light or throw any fireworks of any kind.

(C) Public display of fireworks are permitted at any time, provided that any individual, firm, partnership, or corporation has received permission from the City Council prior to making such public display of fireworks.

(Prior Code, § 8-5-2) Penalty, see § 94.999

§ 94.999 PENALTY.

Any person who shall violate any of the provisions of this chapter shall be subject to fine and or imprisonment as set in § 10.99.

(Prior Code, § 8-5-3)

CHAPTER 95: CEMETERY

Section

- 95.01 Definitions
- 95.02 Lots
- 95.03 Lot transfers or assignments require consent
- 95.04 For sale signs not permitted
- 95.05 Access to the grounds
- 95.06 Lot enclosures prohibited
- 95.07 Memorials
- 95.08 Lots are under the control of the officers of the cemetery
- 95.09 Offensive or improper monument, effigy, enclosure, or structure
- 95.10 No metallic urns or monuments
- 95.11 Plantings
- 95.12 Casket containers
- 95.13 Flowers and wreaths
- 95.14 Cemetery authorities may alter avenues or walks
- 95.15 Sprinklers
- 95.16 Grave opening and closing
- 95.17 Burial of cremains

§ 95.01 DEFINITIONS.

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

FOUNDATIONS. All foundations for monuments shall be made of cement, sand, and rock, to a depth of not less than one-foot, with a five-inch projection beyond the base of the monument.

MARKERS. Markers to be used at the head or foot of graves shall not be larger than two feet-long, one-foot wide, and must not exceed grass level upon setting. All placing and construction of **MARKERS** shall be subject to approval in the same manner as above specified for monuments. So called **DOUBLE SLANTING MARKERS** shall be classified as monuments and shall be placed at the head of the grave. No single slanting markers shall be allowed, except in case of matching markers already in place on lots.

MONUMENT. Any stone exceeding two feet by one foot in size, and which is designed to extend more than eight-inches above the ground, shall be considered a monument for the purposes of this chapter. All **MONUMENTS** to be erected must first be approved by the chairperson of the committee as to size, location on lot, foundations, and kind of stone to be used; provided, however, that such right of approval may be delegated by such committee chairperson to the custodian if he or she wishes.

(Prior Code, § 6-14-1) (Ord. 525, passed 12-28-2020)

§ 95.02 LOTS.

All lots shall be subject to the laws of the state, relating to cemeteries, and shall not be used for any purpose than as a place for burial of the dead.

(Prior Code, § 6-14-2) (Ord. 525, passed 12-28-2020)

§ 95.03 LOT TRANSFERS OR ASSIGNMENTS REQUIRE CONSENT.

Lot owners shall not allow interments to be made in their lots for remuneration; nor shall any transfer or assignment of the use of any lot or any interest therein be valid without the consent in writing of the directors of the city cemetery first hand and endorsed upon such transfer or assignment.

(Prior Code, § 6-14-3) (Ord. 525, passed 12-28-2020)

§ 95.04 FOR SALE SIGNS NOT PERMITTED.

No sign indicating that a lot, vault, or tomb is for sale will be permitted in the cemetery grounds.

(Prior Code, § 6-14-4) (Ord. 525, passed 12-28-2020)

§ 95.05 ACCESS TO THE GROUNDS.

The owners of lots and their families will be allowed access to the grounds at all times upon observing the rules which are, or may be adopted, for the regulation of visitors.

(Prior Code, § 6-14-5) (Ord. 525, passed 12-28-2020)

§ 95.06 LOT ENCLOSURES PROHIBITED.

Lot enclosures of any kind whatsoever are prohibited. All lots shall be sodded or seeded, mowed, and maintained by the city.

(Prior Code, § 6-14-6) (Ord. 525, passed 12-28-2020)

§ 95.07 MEMORIALS.

The owner of each lot shall have the right to erect any proper memorial of granite, marble, or bronze, but such memorial must abide by the rules pertaining to monuments, foundations, and markers.

(Prior Code, § 6-14-7) (Ord. 525, passed 12-28-2020)

§ 95.08 LOTS ARE UNDER THE CONTROL OF THE OFFICERS OF THE CEMETERY.

All lots conveyed shall continue under the control of the officers of the cemetery, so far as to secure uniformity in the use, care, and management thereof to the general purposes and rules of the cemetery under their supervision.

(Prior Code, § 6-14-8) (Ord. 525, passed 12-28-2020)

§ 95.09 OFFENSIVE OR IMPROPER MONUMENT, EFFIGY, ENCLOSURE, OR STRUCTURE.

If any monument, effigy, or enclosure, or any structure whatsoever, or any inscription be placed in or upon any lot, which shall be determined by the cemetery authorities to be offensive or improper to the appearance of the surrounding lot or grounds, they shall have the right, and it shall be their duty, to enter upon such lot and remove the said offensive and improper object.

(Prior Code, § 6-14-9) (Ord. 525, passed 12-28-2020)

§ 95.10 NO METALLIC URNS OR MONUMENTS.

No metallic urn, monuments, or anything of any shape in metal will be allowed upon lots in the cemetery, except bronze.

(Prior Code, § 6-14-10) (Ord. 525, passed 12-28-2020)

§ 95.11 PLANTINGS.

All plantings in cemetery, having special reference to shrubbery, trees, and plants, shall be strictly controlled by cemetery custodian. No individual may place on any lot any of the above referenced plantings. All plantings shall be made by the city in prescribed areas so as to ensure proper maintenance and upkeep, and keeping with cemetery beautification programs. Metal vases will be allowed to be placed in front of markers and monuments, and of the commercial type that can be set flush with the ground, and remain flush when not in use.

(Prior Code, § 6-14-11) (Ord. 525, passed 12-28-2020)

§ 95.12 CASKET CONTAINERS.

Casket containers must be reinforced fiberglass, concrete, marble, granite, or steel construction.

(Prior Code, § 6-14-12) (Ord. 525, passed 12-28-2020)

§ 95.13 FLOWERS AND WREATHS.

Artificial flowers and wreaths will be permitted in the cemetery, but may be removed by cemetery custodian when their appearance becomes shoddy and not in keeping with cemetery beautification. Real flowers will be removed when they become wilted.

(Prior Code, § 6-14-13) (Ord. 525, passed 12-28-2020)

§ 95.14 CEMETERY AUTHORITIES MAY ALTER AVENUES OR WALKS.

The cemetery authorities may, from time to time, lay out or alter the avenues or walks or make such rules and regulations for the government of the grounds as they deem requisite and proper to secure and promote the general objects of the cemetery.

(Prior Code, § 6-14-14) (Ord. 525, passed 12-28-2020)

§ 95.15 SPRINKLERS.

There is a ban on use of sprinklers at the cemetery for watering. Soaker hoses may be used or any other method that will not affect any of the surrounding areas.

(Prior Code, § 6-14-15) (Ord. 525, passed 12-28-2020)

§ 95.16 GRAVE OPENING AND CLOSING.

Only the cemetery caretaker may open a grave in the cemetery. All interments and disinterments shall be done under the supervision of the cemetery caretaker and in conformance with all applicable health laws. All graves must be closed immediately following the burial ritual. The cemetery caretaker will close all graves. A lot preparation fee at an amount established by resolution by the governing body of the city shall be charged when a grave is opened for a burial or disinterment.

(Ord. 525, passed 12-28-2020)

§ 95.17 BURIAL OF CREMAINS.

Cremains need to be buried at least 12 inches (with a recommendation of 18 inches) down from the top of the cremation container which is impervious to the soil and animal intrusions. The cemetery caretaker shall first mark out the boundary lines of said burial before digging commences. Only the cemetery caretaker will dig the area for the cremains. The family can place the cremains in the area prepared. Either the family or the cemetery caretaker can cover the buried cremains with the soil that was removed. A lot preparation fee at an amount established by resolution by the government body of the city shall be charged when a grave is opened for a burial or disinterment.

(Ord. 525, passed 12-28-2020)

CHAPTER 96: CITY PARKS AND SERVICES

- 96.01 Dutch Elm Disease nuisance
- 96.02 Inspection
- 96.03 Removal of nuisances
- 96.04 Assessment of cost of removal and spraying
- 96.05 Public notice of removal action
- 96.06 Cottonwood trees

Public Library

- 96.20 Operation of library

- 96.99 Penalty

WEBSTER FOREST COMMUNITY

§ 96.01 DUTCH ELM DISEASE NUISANCE.

(A) Any living or standing elm tree or part of tree affected with Dutch Elm Disease fungus, *Ceratocystis Ulmi*, or which harbor the European Bark Beetle, *Scolytus Multistriatus* (Eichb.) and/or the American Elm Bark Beetle, *Hylurgopinus Rufipes* (Marsh.) is hereby declared to be a public nuisance.

(B) Any dead elm tree or part thereof including logs, branches, stumps, firewood, or other elm material from which the bark has not been removed and burned, or treated with an effective elm bark beetle destroying insecticide is hereby declared to be a public nuisance.

(Prior Code, § 6-11-1)

§ 96.02 INSPECTION.

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

(Prior Code, § 6-11-2)

§ 96.03 REMOVAL OF NUISANCES.

(A) If the City Forester shall determine upon inspection or examination that any public nuisance as herein defined exists in or upon a public street, alley, park, or public place, including the terrace strip between the curb and lot line, within the city, said officer shall immediately cause it to be removed and burned or otherwise abate the same.

(B) If upon inspection or examination it shall be determined with reasonable certainty that any public nuisance as herein defined exists in or upon private premises within the city, written notice shall be served upon the owner of such property, if he or she can be found, or upon the occupant thereof, to remove such nuisance within specified days of service of said notice. If said owner or occupant does not remove said nuisances within the time specified in such notice, the City Council shall cause it to be removed and burned or otherwise abate the same. No damage shall be awarded to the owner for destruction of any elm tree, elm wood, or any part thereof pursuant to this section. The tree is presumed to be diseased and subject to removal unless said owner or occupant has shown that the tree is not so diseased by sending in specimens to the plant Pathology Department, SDSU, Brookings, and received a negative report thereon.

(C) All removals shall be made in such manner as to destroy or prevent as fully as possible the spread of Dutch Elm Disease or the insect pest or vectors known to carry such disease fungus.

(D) Whenever it is determined that any elm tree or any part thereof is infected with Dutch Elm Disease fungus, the City Council may cause to be treated all trees located on public property within a 1,000- to 1,500-foot radius thereof with an effective elm bark beetle destroying insecticide.

(Prior Code, § 6-11-3)

§ 96.04 ASSESSMENT OF COST OF REMOVAL AND SPRAYING.

The entire cost of any removal of a public nuisance as herein defined on any public street, alley, park, or other public place including the terrace strip between curb and lot line shall be borne by the city. The cost of removing elm trees infected with the Dutch Elm fungus on private property shall be borne by the property owner. If said owner fails to remove such nuisance by the removal of said tree or trees within the specified day notice period, said tree or trees shall be removed by the city and the cost of said removal either assessed against the property or recovered in a civil action against the owner.

(Prior Code, § 6-11-4)

§ 96.05 PUBLIC NOTICE OF REMOVAL ACTION.

In order to facilitate the work and minimize the inconvenience to the public of any treating operation conducted under this chapter, the City Council shall cause to be given advance public notice of such operation by publication in the local newspaper and by other effective means. It shall also cause the posting of appropriate warning notices in the area and along the streets which are to be treated at least 24 hours in advance of treating. When any residue or concentrate from the municipal treating operations can be expected to be deposited on any public street, the City Council shall notify the Chief of Police who shall take all necessary steps to make and enforce temporary parking and traffic regulations on such streets as conditions require. Temporary "no parking" notices shall be posted in each block of any affected street at least 24 hours in advance of treating operations.

(Prior Code, § 6-11-5)

§ 96.06 COTTONWOOD TREES.

No female cottonwood trees other than existing trees shall be permitted within the city limits.

(Prior Code, § 6-11-8)

PUBLIC LIBRARY

§ 96.20 OPERATION OF LIBRARY.

The public library, previously established, shall be operated in accordance with the laws of the state, existing contracts, these ordinances, and any other rules and regulations adopted by the Library Board and be referred to as city public library.

(Ord. 343, passed 11-6-1989)

§ 96.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Except in cases where a different or additional penalty is imposed by §§96.01 to 96.06 or by some existing provision of law, every violation of any of the provisions of §§ 96.01 to 96.06 shall be punishable by a fine not exceeding \$100 or by imprisonment for a period not exceeding 30 days or by both such fine and imprisonment.

(C) (1) *Violation of lending privileges.* Every person who shall take from the city public library any book, pamphlet, periodical, paper, painting, tape, film, or other property, except in accordance with the rules of such library, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$100.

(2) *Neglecting to return books and the like.* Every person who shall take or borrow from the city public library any book, pamphlet, periodical, paper, painting, tape, film, or other property and neglect to return the same within two weeks from the date of mailing of third notice to his or her home address advising that the property has been overdue for a period of two or more weeks shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$100.

(3) *Defacing library property.* Every person who shall intentionally cut, mutilate, mark, tear, write upon, deface, or otherwise destroy or injure in whole or in part any book, pamphlet, periodical, paper, painting, tape, film, or other property belonging to the city public library, or who shall knowingly suffer any such injury to be inflicted while such property is in his or her custody, or shall willfully or wantonly mark or deface or in any way injure the city public library or any part thereof, or any fixture therein or appertaining thereto, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$100 provided, however, that neither the foregoing provisions nor their implementation shall be a bar to any action by the city public library for damages, restitution, or special remedies as against one who is in violation of said provisions.

(SDCL 9-19-3) (Prior Code, § 6-11-6) (Ord. 343, passed 11-6-1989)

TITLE XI: BUSINESS REGULATIONS

Chapter

110. ALCOHOL

111. JUNKYARDS AND SOLID WASTE BUSINESSES

112. SPECIFIC BUSINESS REGULATIONS

113. TAXATION

CHAPTER 110: ALCOHOL

Section

- 110.01 Limitation of licenses
- 110.02 Restrictions
- 110.03 Application and license fees
- 110.04 Location of business
- 110.05 Hours of business
- 110.06 Sanitation facilities
- 110.07 Alcohol beyond premises
- 110.08 Sale or gift to minors
- 110.09 Establishment of municipal liquor store

- 110.99 Penalty

§ 110.01 LIMITATION OF LICENSES.

(A) The city will not hold the only license for the sale of intoxicating liquors on- or off-sale liquor licenses within the municipality, notwithstanding the maximum number of liquor licenses as allowable by SDCL 35-4-10 and 35-4-11, the number of licenses available in the city are as follows:

- (1) On-sale liquor: five; and
- (2) Off-sale liquor: one.

(B) It is hereby determined that this chapter is necessary for the immediate preservation of the public peace, health, and safety, and support of the municipal government and its existing institutions and shall be in full force and effect from and after its passage and publications according to law.

(C) 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 state law.

(SDCL 9-29-7) (Ord. 520, passed 4-6-2020) Penalty, see §110.99

§ 110.02 RESTRICTIONS.

Licenses for the sale of alcoholic beverages or malt beverages in the city shall be submitted as prescribed by state law, as amended. The number of licenses approved by the City Council will not exceed the limits set by SDCL 35-4-10 and 35-4-11.

(Ord. 520, passed 4-6-2020)

§ 110.03 APPLICATION AND LICENSE FEES.

(A) 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 state law.

(SDCL 35-2)

(B) An on-sale/off-sale malt beverage licensee or an on-sale liquor licensee may obtain a special permit from the city extending its hours of operation for a special event; provided, however, that said licensee makes application for a special permit to the City Finance Officer prior to the event and pays the required fee for the special permit at the time of approval of application. The city is to be given ample notice as a public hearing is required for a special permit.

(C) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

TEMPORARY LICENSES. Includes:

(a) A special malt beverage retailers license in conjunction with a special event to any civic, charitable, educational, fraternal, or veterans organization or any licensee licensed as an on-sale liquor licensee or on- and off-sale malt beverage licensee;

(b) A special on-sale wine retailers license in conjunction with a special event to any civic, charitable, educational, fraternal, or veterans organization or any licensee licensed as an on-sale liquor licensee or on- and off-sale wine licensee or a farm winery licensee;

(c) A special on-sale liquor license in conjunction with a special event to any civic, charitable, educational, fraternal, or veterans organization or any licensee licensed as an on-sale liquor licensee; and

(d) A special off-sale package wine dealers license in conjunction with a special event to any civic, charitable,

educational, fraternal, or veterans organization or any licensee licensed as an off-sale liquor licensee, on- and off-sale wine licensee, package off-sale malt beverage/farm winery licensee, or a farm winery holding an off-sale package wine license. This temporary license is limited to selling wine produced by a state farm winery.

(D) Temporary licenses can be issued for no more than 15 consecutive days.

(E) The city is required to set a public hearing on temporary licenses unless the entity applying for the license holds an on-sale liquor license or malt beverage license and the temporary license will be used in a publicly-owned facility, then just Council approval is needed.

(F) The city limits the number of temporary licenses to three that may be issued to any licensee or organization within a calendar year.

(Ord. 520, passed 4-6-2020)

§ 110.04 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 state law and local regulations.

(SDCL 35-2-6.1; 35-2-6.2) (Ord. 520, passed 4-6-2020)

§ 110.05 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; 35-4-81.2) (Ord. 520, passed 4-6-2020) Penalty, see §110.99

§ 110.06 SANITATION FACILITIES.

Every on-sale business shall maintain upon his or her 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 for use by the users of such facilities, 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) (Ord. 520, passed 4-6-2020)

§ 110.07 ALCOHOL BEYOND PREMISES.

It shall be unlawful for any licensee who is authorized by law to sell alcoholic beverages within the city 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.

(Ord. 520, passed 4-6-2020) Penalty, see §110.99

§ 110.08 SALE OR GIFT TO MINORS.

No person shall sell or give any alcoholic beverages to any person under the age of 21 years.

(Ord. 520, passed 4-6-2020) Penalty, see §110.99

§ 110.09 ESTABLISHMENT OF MUNICIPAL LIQUOR STORE.

The governing body of the city is empowered to establish a municipal liquor store at local option under the guidelines set forth in SDCL Title 35, Chapter 3.

(Ord. 520, passed 4-6-2020)

§ 110.99 PENALTY.

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 offense. 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 state law.

(SDCL 35-2-10) (Ord. 520, passed 4-6-2020)

Junkyard and Wrecking Control

- 111.01 Definitions
- 111.02 License required
- 111.03 Revocation of license
- 111.04 Daily record of purchases
- 111.05 Junkyard to be fenced
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- 111.07 Purchasing junk from minors

Operation of Solid Waste Businesses

- 111.20 Definitions
- 111.21 Licenses
- 111.22 Routes, pickup, and provision of containers
- 111.23 Garbage fees
- 111.24 Routes
- 111.25 Landfill fees
- 111.26 Rules and regulations
- 111.27 Equipment
- 111.28 Liability insurance

- 111.99 Penalty

JUNKYARD AND WRECKING CONTROL

§ 111.01 DEFINITIONS.

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

JUNK DEALER. Any person, persons, firm, or corporation engaged in operation of a junkyard.

JUNKYARD. Any business for the sale, purchase, or storage of salvage material, goods, wares, or merchandise and secondhand goods, including motor vehicles and accessories for motor vehicles or a salvage or wrecking yard or store.

(Prior Code, § 7-5-1)

§ 111.02 LICENSE REQUIRED.

No person shall engage in business as a junk dealer or operate a junkyard within the city or within one mile thereof without first having secured a license.

(Prior Code, § 7-5-2) Penalty, see § 111.99

§ 111.03 REVOCATION OF LICENSE.

The City Council shall have the right to revoke any license granted under this chapter if it determines upon investigation and after notice and public hearing that the licensee has violated any of the provisions of this chapter, provided that notice of the hearing shall be served upon the licensee named in the license at least five days before the hearing, either by personal service of a copy of the notice or by mailing a copy of the same to the person at the address given in the application. Should any license granted under this chapter be revoked, no refund of the license fee shall be made.

(Prior Code, § 7-5-3)

§ 111.04 DAILY RECORD OF PURCHASES.

Every junk dealer shall keep a daily written record of all articles and quantities purchased by him or her setting forth the name, residence, age, and occupation of the person from whom each article or articles were purchased and the name of the employer of such person, the date and hour the purchase was made, the price paid, and such other information as the Chief of Police with the approval of the City Council shall require. Such record shall at all times be opened for the inspection of police officers or any officer of the law to make investigation and also for securing evidence in connection with any violation

of law.

(Prior Code, § 7-5-4)

§ 111.05 JUNKYARD TO BE FENCED.

If located inside or outside the city limits and within one mile thereof, the entire business including buying, selling, and storing must be conducted within a fence obstructing view of the junkyard at least ten feet high, and said business and fence must be located at least 30 feet from any public highway leading into the city.

(Prior Code, § 7-5-5)

§ 111.06 ONE DAY STORAGE.

No goods, material, wares, merchandise, motor vehicles, or accessories for motor vehicles or any salvage goods, wares, merchandise, or materials, including used electrical and/or gas appliances of all descriptions, shall be kept, stored, or placed for a longer period than one day outside of such building or fence.

(Prior Code, § 7-5-6) Penalty, see § 111.99

§ 111.07 PURCHASING JUNK FROM MINORS.

It shall be unlawful for any person or persons, firm, or corporation to purchase or receive from any person under the age of 18 years any article, goods, or things commonly known and classed as junk; any bottle, pipe, or pipe fittings; lead, iron, or brass; tools or implements; or any goods or wares of secondhand character; or any rubber, overshoes, boots, or rubber goods of any nature, either secondhand or new, without the written consent of such minor's parent or guardian, which writing shall be kept by such person or persons, firm, or corporation and be subject to the inspection of any police officer of the city.

(Prior Code, § 7-5-7) Penalty, see § 111.99

OPERATION OF SOLID WASTE BUSINESSES

§ 111.20 DEFINITIONS.

The definitions of any terms used herein are intended to be consistent with the terms defined in SDCL Chapters 34A-6 and 34A-11, as amended, and any administrative rules and regulations adopted in accordance with those chapters to the extent the terms used herein have been defined by state law. To the extent consistent with state law, the following definitions will control.

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

BULKY ITEMS. Large items such as **WHITE GOODS** or furniture.

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

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

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

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

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

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

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

(Prior Code, § 6-7-1)

§ 111.21 LICENSES.

(A) All solid waste businesses operating within the city shall be licensed by the city at a rate of \$250 per license per year, which license may be revoked by the City Council at any time.

(B) Licenses shall be renewed each year on the anniversary date of their approval.

(Prior Code, § 6-7-2)

§ 111.22 ROUTES, PICKUP, AND PROVISION OF CONTAINERS.

(A) Garbage, commercial solid waste, and household waste shall be picked up at least once a week or more frequently when circumstances require. The dates of pickup shall be at the discretion of the individual solid waste business.

(B) The solid waste business shall determine and provide the appropriate type and size of garbage container for each business and residence.

(Prior Code, § 6-7-3)

§ 111.23 GARBAGE FEES.

(A) Each solid waste business shall furnish a list to the city of those persons and businesses with whom the solid waste business has contracted. The maximum fee allowed to be charged by a solid waste business to a residence or business shall be set from time to time by resolution of the city.

(B) Solid waste fees from the removal rubble, bulky items, trees, and white goods shall be between the solid waste business and the person or business for whom the service is provided.

(Prior Code, § 6-7-4)

§ 111.24 ROUTES.

Each solid waste business shall have full discretion to determine whether to pickup garbage, commercial solid waste, or household waste at the curb side or alley.

(Prior Code, § 6-7-5)

§ 111.25 LANDFILL FEES.

Solid waste businesses shall be responsible for paying all fees associated with disposal of collected materials.

(Prior Code, § 6-7-6)

§ 111.26 RULES AND REGULATIONS.

Each solid waste business shall be required to dispose of all collected materials in accordance with all statutes and regulations of the county and of the city, and other agencies.

(Prior Code, § 6-7-7)

§ 111.27 EQUIPMENT.

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

(Prior Code, § 6-7-8)

§ 111.28 LIABILITY INSURANCE.

Any licensee shall be required to carry \$1,000,000 liability insurance policy and provide the city with a certificate of insurance.

(Prior Code, § 6-7-10)

§ 111.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Any person, firm, or corporation violating §§ 111.01 to 111.07 shall be fined according to the penalties described in §§ 111.01 to 111.07. Every day of such violation shall constitute a separate and distinct violation.

(Prior Code, § 7-5-8)

(C) The penalty for violating §§ 111.20 to 111.28 shall be a fine not exceeding \$200 or by imprisonment not exceeding a

maximum of 30 days, or by both such fine and imprisonment.

(Prior Code, § 6-7-9)

CHAPTER 112: SPECIFIC BUSINESS REGULATIONS

Section

Meat and Slaughter Houses

- 112.01 Permit
- 112.02 Offensive and unwholesome material on premises
- 112.03 Inspections
- 112.04 Destroying spoiled meats and the like
- 112.05 Supervision by Board of Health

Carnivals and Circuses

- 112.20 Contracts

Going Out of Business/Removal Sales

- 112.35 Definitions
- 112.36 Application of regulations
- 112.37 Application requirements
- 112.38 Effect of license
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Licenses

- 112.55 License required
- 112.56 Application for license
- 112.57 License expiration
- 112.58 Revocation
- 112.59 Issuance of license
- 112.60 Record of licenses
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MEAT AND SLAUGHTER HOUSES

§ 112.01 PERMIT.

It shall be unlawful for any person, firm, or corporation to carry on the business of slaughtering animals or rendering of any animal matter, or manufacturing the same into fertilizing materials by the use of heat or otherwise, at any place in the city, and within one mile of the city limits thereof except by permit of the City Council.

(Prior Code, § 6-3-1) Penalty, see § 112.99

§ 112.02 OFFENSIVE AND UNWHOLESOME MATERIAL ON PREMISES.

It shall be unlawful for any persons, firm, or corporation engaged in the business of slaughtering animals or packing them for market, or rendering of any animal matter, or conducting a meat market within the city limits or within one mile thereof, to permit or suffer to remain on the premises where such business is carried on, any decaying meat, blood, bone, offal, filth, or other animal matter so that the same shall become offensive and unwholesome and endanger health or be a nuisance to the neighborhood. Such premises shall at all times be kept in a clean and healthy and inoffensive condition. Any violation of this section shall be punishable by a fine set in this subchapter.

(Prior Code, § 6-3-2) Penalty, see § 112.99

§ 112.03 INSPECTIONS.

The Board of Health shall be permitted free entrance at all hours of the day or night to all places used for any purpose specified in this title, and shall have the right of free and unrestrained examination of such places and of the machinery and utensils therein contained, and of the meat provisions therein exposed for sale and the manner of conducting and operating such business. Any person willfully hindering or obstructing such entrance or examination shall, upon conviction thereof, be fined in an amount set in this subchapter.

(Prior Code, § 6-3-3)

§ 112.04 DESTROYING SPOILED MEATS AND THE LIKE.

If, in the opinion of the city's Board of Health, any meat provisions exposed for sale in any market, shop, or other building in the city are tainted, decayed, unwholesome, or dangerous to the public health, it shall be the duty of the Board of Health to serve notice in writing upon the person exposing for sale such meat provisions, requiring him or her to destroy the same in such manner and within such time shall by such notice be prescribed, and if the person so served neglects to conform to such notice, it shall be the duty of the Board of Health to destroy such meat provisions at the expense of the city, and report in writing to the City Council the amount of such expense, and the name of the person exposing such meat provisions for sale; and thereupon suit may be instituted in the name of the city against such person for the recovery of expense incurred.

(Prior Code, § 6-3-4)

§ 112.05 SUPERVISION BY BOARD OF HEALTH.

All places or premises within the city or within one mile of the city limits where any business enumerated in this subchapter is carried on, shall be subject to supervision and inspection by the Board of Health, who shall have the power to make, publish, and enforce such regulations respecting the management of the same as it may deem necessary to the health or the physical comfort of the inhabitants of the city, and any refusal or willful neglect on the part of any person, owning or having charge of such building, premises, or such business, to observe or comply with any regulations so made, shall render such person so offending liable to a fine as set in this subchapter.

(Prior Code, § 6-3-5)

CARNIVALS AND CIRCUSES

§ 112.20 CONTRACTS.

It shall be unlawful for any person or persons owning, managing, or operating any circus, menageries, wild west shows, carnivals, or other exhibition to exhibit in the city without first entering into a contract with the city.

(Prior Code, § 7-2-1) Penalty, see § 112.99

GOING OUT OF BUSINESS/REMOVAL SALES

§ 112.35 DEFINITIONS.

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

CITY. The City of Webster.

FIRE AND OTHER ALTERED GOODS SALE. A sale held out in such a manner as to reasonably cause the public to believe that the sale will offer goods damaged or altered by fire, smoke, water, or other means.

GOING-OUT-OF-BUSINESS SALE. A sale held out in such a manner as to reasonably cause the public to believe that upon the disposal of the stock of goods on hand the business will cease and be discontinued, including, but not limited to the following sales: adjuster's; adjustment; alteration; assignee's; bankrupt; benefit of administrator's; benefit of creditors'; benefit of trustees; building coming down; closing; creditor's committee; creditor's; end; executor's; final days; forced out; forced out of business; insolvents'; last days; lease expires; liquidation; loss of lease; mortgage sale; receiver's; trustee's; quitting business.

GOODS. Any goods, wares, merchandise, or other property capable of being the object of a sale regulated hereunder.

PERSON. Any person, firm, partnership, association, corporation, company, or organization of any kind.

REMOVAL OF BUSINESS SALE. A sale held out in such a manner as to reasonably cause the public to believe that the person conducting the sale will cease and discontinue business at the place of sale upon disposal of the stock of goods on hand and will then move to and resume business at a new location in the city or will then continue business from other existing locations in the city.

(Prior Code, § 7-7-1)

§ 112.36 APPLICATION OF REGULATIONS.

(A) *Provisions of supplement general licensing ordinance.* The provisions of this subchapter are intended to augment and

be in addition to the provisions of the general licensing ordinance of this city. Where this subchapter imposes a greater restriction upon persons, premises, businesses, or practices than is imposed by the general licensing ordinance of this city, this subchapter shall control.

(B) *Established business requisite.* Any person who has not been the owner of a business advertised or described in the application for a license hereunder for a period of at least six months prior to the date of the proposed sale shall not be granted a license.

(C) *Exception for survivors of business persons.* Upon the death of a person doing business in this city, his or her heirs, devisees, or legatees shall have the right to apply at any time for a license hereunder.

(D) *Interval between sales.* Any person who has held a sale, as regulated hereunder, at the location stated in the application, within one year last past from the date of such application shall not be granted a license.

(E) *Restricted location.* Where a person is applying for a license hereunder operates more than one place of business, the license issued shall apply only to the one store or branch specified in the application and no other store or branch shall advertise or represent that it is cooperating with it, or in any way participating in the licensed sale, nor shall the store or branch conducting the licensed sale advertise or represent that any other store or branch is cooperating with it or participating in any way in the licensed sale.

(F) *Person exempted.* The provisions of this subchapter shall apply to or affect the following persons:

(1) Persons acting pursuant to an order to process of a court of complement jurisdiction;

(2) Persons acting in accordance with their powers and duties as public officials; and

(3) Persons conducting a sale of the type regulated herein on the effective date of this subchapter, unless such sale is continued for a period of more than 30 days from and after such effective date, in which event, such person, at the lapse of the said 30-day period, shall comply with the provisions of this subchapter.

(G) *Publication.* Any publisher of a newspaper, magazine, or other publication, who published in good faith, any advertisement, without knowledge of its false, deceptive, or misleading character, or without knowledge that the provisions of this subchapter have not been complied with.

(Prior Code, § 7-7-3)

§ 112.37 APPLICATION REQUIREMENTS.

A person desiring to conduct a sale regulated by this subchapter shall make a written application to the City Council setting forth and containing the following information:

(A) The true name and address of the owner of the goods to be the object of the sale;

(B) A description of the place where such sale is to be held;

(C) The nature of the occupancy, whether by lease or sublease, and the effective date of termination of such occupancy;

(D) The dates of the period of time in which the sale is to be conducted;

(E) A full and complete statement of the facts in regard to the sale, including the reason for the urgent and expeditious disposal of goods thereby and the manner in which the sale will be conducted;

(F) The means to be employed in advertising such sale together with the proposed content of any advertisement;

(G) A complete and detailed inventory of the goods to be sold at such sale as disclosed by the applicant's records. Said inventory shall be attached to and become part of the required application;

(H) All goods included in such inventory shall have been purchased by the applicant for resale on bona fide orders without cancellation privileges and shall not comprise goods purchased on consignment;

(I) Such inventory shall not include goods ordered in contemplation of conducting a sale regulated hereunder. Any unusual purchase or additions to the stock of goods of the business hereby affected within ten days before the filing of an application hereunder shall be deemed to be of such character; and

(J) Any applicant for a license hereunder shall submit to the City Council with his or her application a license fee of \$50. Any applicant for a renewal license hereunder shall submit to the City Council with his or her renewal application a renewal license of \$50.

(Prior Code, § 7-7-4)

§ 112.38 EFFECT OF LICENSE.

A license shall be issued hereunder on the following terms.

(A) *Licensing period.* The license shall authorize the sale described in the application for a period of not more than 60 consecutive days, Sundays and legal holidays excluded, following the issuance thereof.

(B) *Renewal procedure.*

(1) The City Council shall renew a license for one period of time only, such period to be in addition to the 60 days permitted in the original license and not to exceed 60 consecutive days, Sundays and holidays excluded, when he or she finds:

(a) That facts exist justifying the license renewal;

(b) That the licensee has filed an application for renewal; and

(c) That the licensee has submitted with the application for renewal a revised inventory showing the items listed on the original inventory remaining unsold and not listing any goods not included in the original application and inventory.

(2) For the purposes of this division (B), any application for a license under the provisions of this subchapter covering any goods previously inventoried as required here under shall be deemed to be an application for renewal, whether presented by the original applicant or by any other person.

(C) *Nature of sale.* The license shall authorize only the one type of sale described in the application at the location named therein.

(D) *Saleable goods.* The license shall authorize only the sale of goods described in the application at the location named therein.

(E) *Surrender of general license.* Upon being issued a license hereunder for a going-out-of-business sale, the licensee shall surrender to the City Council all other business licenses he or she may hold at that time applicable to the location and goods covered by the application for a license under this subchapter.

(F) *Non-transferability.* Any license herein provided for shall not be assignable or transferable.

(Prior Code, § 7-7-5)

§ 112.39 DUTIES OF LICENSEE.

A licensee hereunder shall:

(A) *Adhere to inventory.* Make no additions whatsoever, during the period of the licensed sale, to the stock of goods set forth in the inventory attached to the application for license;

(B) *Advertise properly.* Refrain from employing any untrue, deceptive, or misleading advertising;

(C) *Adhere to advertising.* Conduct the licensed sale in strict conformity with any advertising or holding out incident thereto;

(D) *Keep duplicate inventory.* Keep available at the place of sale a duplicate copy of the inventory submitted with the application and shall present such duplicate to inspecting officials upon request; and

(E) *Segregate non-inventoried goods.* Keep any other goods separate and apart from goods listed in the filed inventory as being objects of sale and shall make such distinction clear to the public by placing tags on all inventoried goods in and about the place of sale apprising the public of the status of all such goods.

(Prior Code, § 7-7-6)

LICENSES

§ 112.55 LICENSE REQUIRED.

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

(Prior Code, § 7-1-1) Penalty, see § 112.99

§ 112.56 APPLICATION FOR LICENSE.

(A) 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.

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

(Prior Code, § 7-1-2)

§ 112.57 LICENSE EXPIRATION.

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

(Prior Code, § 7-1-3)

§ 112.58 REVOCATION.

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

(Prior Code, § 7-1-4)

§ 112.59 ISSUANCE OF LICENSE.

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

(Prior Code, § 7-1-5)

§ 112.60 RECORD OF LICENSES.

The Finance Officer shall keep a record of all licenses issued by the city stating when and to whom 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) (Prior Code, § 7-1-6)

§ 112.61 APPROVAL OF BONDS.

Any bond, liability insurance, or deposit required shall be subject to the approval of the Finance Officer, and in case such Finance Officer deems the security inadequate, new or additional security may be required; the license may be suspended pending the furnishing of such new or additional security, and if not furnished, the license may be revoked.

(Prior Code, § 7-1-7)

§ 112.62 APPEAL.

Any person aggrieved by the action of the City Finance Officer or the Mayor in the denial of an application for permit of license or revocation of a license as provided in § 112.58, shall have the right of appeal to the City Council. Such appeal shall be taken by filing with the City Council within 14 days after the notice of action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal. Service of such appeal shall be grounds for the appeal. Service of such appeal shall be made to the City Finance Officer. The City Council shall set a time and place for a hearing of such appeal and notice of such hearing shall be given to the appellant. The decision and order of the Council on such appeal shall be final and conclusive.

(Prior Code, § 7-1-8)

§ 112.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Any person exposing for sale in any market, house, or shop or elsewhere in the city, any tainted or putrid meat provisions, which from this or other causes, are unwholesome and dangerous to the public health, shall be deemed guilty of a violation and shall, on conviction thereof, be punished by a fine in an amount set in §§ 112.01 to 112.05.

(Prior Code, § 6-3-5)

(C) Any person, firm, or corporation violating any of the provisions of §§112.35 to 112.39 shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount not exceeding \$100, provided that each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable thereunder.

(Prior Code, § 7-7-7)

CHAPTER 113: TAXATION

Section

Sales and Service Tax

113.01 Purpose

- 113.02 Enactment of tax
- 113.03 Use tax
- 113.04 Collection
- 113.05 Interpretation

Bed, Board, and Booze Tax

- 113.20 Purpose
- 113.21 Enactment of tax
- 113.22 Collection
- 113.23 Interpretation
- 113.24 Use of revenue

- 113.99 Penalty

SALES AND SERVICE TAX

§ 113.01 PURPOSE.

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

(Ord. 434, passed 8-1-2005)

§ 113.02 ENACTMENT OF TAX.

From and after January 1, 2006, there is hereby imposed as a municipal retail sales and service tax upon the privilege of engaging in business a tax measured by 2% on the gross receipts of all persons engaged in business within the municipality, who are subject to the state's retail occupational sales and service tax, SDCL Chapter 10-45, and acts amendatory thereto.

(Ord. 434, passed 8-1-2005)

§ 113.03 USE TAX.

In addition, there is hereby imposed an excise tax on the privilege of use, storage, and consumption within the jurisdiction of the same municipality 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 state's Use Tax, SDCL Chapter 10-46, and acts amendatory thereto.

(Ord. 434, passed 8-1-2005)

§ 113.04 COLLECTION.

Such tax is levied pursuant to authorization granted by SDCL Chapter 10-52 and acts amendatory thereto, and shall be collected by the state's 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 state's Secretary of Revenue and Regulation shall lawfully prescribe.

(Ord. 434, passed 8-1-2005)

§ 113.05 INTERPRETATION.

It is declared to be the intention of this subchapter and the taxes levied hereunder that the same shall be interpreted and construed in the same manner as all sections of the state's chapter on retail sales and service tax, SDCL 10-45 and acts amendatory thereto, and the state's use tax, SDCL Chapter 10-46 and acts amendatory hereto, and that this shall be considered a similar tax except for the rate thereof to that tax.

(Ord. 434, passed 8-1-2005)

BED, BOARD, AND BOOZE TAX

§ 113.20 PURPOSE.

The purpose of this subchapter is to provide additional needed revenue for the municipality by imposing a municipal gross receipts tax pursuant to the powers granted to the municipality by the state, by SDCL Chapter 10-52A, and acts amendatory thereto.

(Ord. 424, passed 8-3-2004)

§ 113.21 ENACTMENT OF TAX.

From and after January 1, 2005, there is hereby imposed a municipal gross receipts tax of 1% upon the gross receipts from the sale of leases or rentals of hotel, motel, campsites, or other lodging accommodations within the municipality for periods of less than 28 consecutive days, the sale of alcoholic beverages as defined in SDCL 35-1-1, establishments where the public is invited to eat, dine, or purchase and carry out prepared food for immediate consumption, and ticket sales or admissions to places of amusement, athletic and cultural events. The tax applies to the gross receipts of all persons engaged in business within the jurisdiction of the municipality who are subject to the state's retail sales and service tax, SDCL Chapter 10-45, and acts amendatory thereto.

(Ord. 424, passed 8-3-2004)

§ 113.22 COLLECTION.

Such tax is levied pursuant to authorization granted by SDCL Chapter 10-52A and acts amendatory thereto, and shall be collected by the state's 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 state's Secretary of Revenue shall lawfully prescribe.

(Ord. 424, passed 8-3-2004)

§ 113.23 INTERPRETATION.

It is declared to be the intention of this subchapter and the taxes levied hereunder that the same shall be interpreted and construed in the same manner as all sections of the state's chapter on retail sales and service tax, SDCL 10-45, and acts amendatory thereto, and that this shall be considered a similar tax except for the rate thereof to that tax.

(Ord. 424, passed 8-3-2004)

§ 113.24 USE OF REVENUE.

Any revenues received under this subchapter may be used only for the purpose of land acquisition, architectural fees, construction costs, payment for civic center, auditoriums, or athletic facility buildings, including the maintenance, staffing, and operations of such facilities, and the promotion and advertising of the municipality, its facilities, attractions, and activities.

(Ord. 424, passed 8-3-2004)

§ 113.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Any person failing or refusing to make reports or payments prescribed by §§113.01 to 113.05 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 \$200 or imprisoned in the municipal jail for 30 days, or both such fine and imprisonment. In addition, all such collection remedies authorized by SDCL Chapter 10-45 and acts amendatory thereto, and SDCL Chapter 10-46 and acts amendatory thereto, are hereby authorized for the collection of these excise taxes by the Department of Revenue and Regulation.

(C) Any person failing or refusing to make reports or payments prescribed by §§113.20 to 113.24 and the rules and regulations relating to the ascertainment and collection if the tax herein levied shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than \$200 or imprisoned in the municipal jail for 30 days, or both such fine and imprisonment. In addition, all such collection remedies authorized by SDCL Chapter 10-45 and acts amendatory thereto are hereby authorized for the collection of these excise taxes by the Department of Revenue.

(Ord. 424, passed 8-3-2004; Ord. 434, passed 8-1-2005)

TITLE XIII: GENERAL OFFENSES

Chapter

130. GENERAL OFFENSES

131. CURFEW

CHAPTER 130: GENERAL OFFENSES

Section

Miscellaneous Offenses

- 130.01 Disturbing the peace
- 130.02 Resisting, escaping from, or assaulting an officer
- 130.03 False emergency alarms prohibited
- 130.04 Prohibiting open bottles or cans containing alcoholic liquor
- 130.05 Ultimate fighting prohibited

Offenses Against Public Places

- 130.20 Crowds obstructing streets
- 130.21 Littering

Offenses Against Property

- 130.35 Injuring signs
- 130.36 Traffic signs, injuring or placing unauthorized prohibited
- 130.37 Destroying trees and plants
- 130.38 Interference with fire pole and apparatus
- 130.39 Unauthorized connection with water and sewer
- 130.40 Interference with City Engineer, instruments, stakes
- 130.41 Interference with city property
- 130.42 Destroying property

MISCELLANEOUS OFFENSES

§ 130.01 DISTURBING THE PEACE.

No person shall disturb the peace of the city or any person by violent, tumultuous, or offensive conduct, or by loud or unusual noises or by profane, obscene, indecent, violent, or threatening language, or by assaulting, striking, or attempting to assault or strike another person, or inviting or defying another person to fight or quarrel, or by willfully and maliciously destroying or attempting to destroy or injure any property belonging to another, or by engaging in a fight with another.

(Prior Code, § 8-1-1) Penalty, see § 10.99

§ 130.02 RESISTING, ESCAPING FROM, OR ASSAULTING AN OFFICER.

No person shall resist or obstruct any police officer in the performance of any official duty, nor in any way or aid or assist any person to neither escape from any such officer, nor assist any person to escape from any lawful confinement. No person shall assault or strike any police officer, nor in any way interfere with a police officer in the discharge of his or her duty.

(Prior Code, § 8-1-2) Penalty, see § 10.99

§ 130.03 FALSE EMERGENCY ALARMS PROHIBITED.

No person shall knowingly make or give any false alarm or fire or other emergency, by calling or causing to be called the Fire Department, the police officers, or any authorized emergency vehicle.

(Prior Code, § 8-1-3) Penalty, see § 10.99

§ 130.04 PROHIBITING OPEN BOTTLES OR CANS CONTAINING ALCOHOLIC LIQUOR.

No person shall take, carry, or have in his or her possession upon a street, alley, sidewalk, or public grounds of the city, or in any vehicle, any opened can, bottle, or other container in which there shall be any quantity of beer or other alcoholic beverage.

(Prior Code, § 8-1-4) Penalty, see § 10.99

§ 130.05 ULTIMATE FIGHTING PROHIBITED.

(A) *Definition.* For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

ULTIMATE FIGHTING. Any activity, regardless of how named or described, or any other form of competition or entertainment, which involves individuals engaged in physical contact by striking or touching an opponent with hands, head, feet, or body. **ULTIMATE FIGHTING** shall include, but not be limited to, any contest or event where kicking, punching, martial arts, or submission holds are permitted. **ULTIMATE FIGHTING** shall not be deemed to include officially sanctioned

and regulated boxing or martial arts training or contests, wrestling, and team sports in which physical contact is incidental to the primary purpose of the game, including, but not limited to, football, basketball, hockey, volleyball, soccer, baseball, and softball.

(B) *Ultimate fighting prohibited.* No person shall engage in ultimate fighting as that term is defined in this section.

(Prior Code, § 8-7-3) Penalty, see § 10.99

OFFENSES AGAINST PUBLIC PLACES

§ 130.20 CROWDS OBSTRUCTING STREETS.

It shall be unlawful for persons to gather in crowds or groups, or for any person to stand on any public street or sidewalk in such manner as to obstruct free passage thereon, or to annoy other persons passing along the same, and any police officer is authorized to disperse any crowd or group or to cause the removal of any person violating the provisions of this section, and to summarily arrest any person in case of refusal to obey any reasonable direction given by such officer for the purpose of clearing the way or preventing annoyance to any passerby on any public street or sidewalk.

(Prior Code, § 8-2-1) Penalty, see § 10.99

§ 130.21 LITTERING.

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

(Prior Code, § 8-2-2) Penalty, see § 10.99

OFFENSES AGAINST PROPERTY

§ 130.35 INJURING SIGNS.

No person shall deface, remove, change, mar, or in any way interfere with or obliterate either wholly or in part any sign, signboard, or card placed, posted, extended, or erected by the city.

(Prior Code, § 8-3-1) Penalty, see § 10.99

§ 130.36 TRAFFIC SIGNS, INJURING OR PLACING UNAUTHORIZED PROHIBITED.

No person shall deface, injure, move, obstruct, or interfere with any official traffic sign or signal, street sign, or parking meter.

(Prior Code, § 8-3-2) Penalty, see § 10.99

§ 130.37 DESTROYING TREES AND PLANTS.

(A) No person shall willfully injure, destroy, or deface any tree, shrub, hedge, or grass in any parking lot or park.

(B) No person shall willfully injure or destroy any cultivated fruits or vegetables, ornamental trees, shrubs, hedges, vines, or flowers, nor injure or carry off any of the products thereof which is property of the city.

(Prior Code, § 8-3-3) Penalty, see § 10.99

§ 130.38 INTERFERENCE WITH FIRE POLE AND APPARATUS.

No person shall interfere with, injure, break, or jar any fire alarm system, post, or pole apparatus in any manner, or climb any fire alarm pole without being properly authorized to do so.

(Prior Code, § 8-3-4) Penalty, see § 10.99

§ 130.39 UNAUTHORIZED CONNECTION WITH WATER AND SEWER.

No person shall, without lawful authority, connect or cause to be connected with any main service pipe, any pipe, or other device for the purpose of obtaining water or sewer therefrom; nor shall, with intent to defraud, connect or cause to be connected with any meter installed for the purpose of registering the amount of water, or city service supplied to any customer so that such meter will not measure or register the full amount of water supplied to any customer.

(Prior Code, § 8-3-5) Penalty, see § 10.99

§ 130.40 INTERFERENCE WITH CITY ENGINEER, INSTRUMENTS, STAKES.

No person shall interfere with the City Engineer while engaged in his or her official duties in any manner or by driving any vehicle of any kind against the person, surveying instruments, or apparatus of said City Engineer or of any of his or her assistants, or by moving or displacing any stake, monument, or bench mark fixed or located by his or her assistants.

(Prior Code, § 8-3-6) Penalty, see § 10.99

§ 130.41 INTERFERENCE WITH CITY PROPERTY.

No person shall climb or in any manner interfere with any building, water tower, or structure belonging to the city, without being authorized to do so by the city; and no person shall in any manner injure or deface any such structure.

(Prior Code, § 8-3-7) Penalty, see § 10.99

§ 130.42 DESTROYING PROPERTY.

No person shall willfully damage, deface, break, destroy, or interface with the property of the city.

(Prior Code, § 8-3-8) Penalty, see § 10.99

CHAPTER 131: CURFEW

Section

131.01 Curfew hours

131.02 Exceptions

131.03 Responsibilities of parent, guardian, or custodian

131.04 Responsibility of others

131.99 Penalty

§ 131.01 CURFEW HOURS.

No person under the age of 16 years, except as herein provided, shall be on any public street or alley or in any park or other public grounds or building, place of amusement, entertainment or refreshment, vacant lot, or any other unsupervised place between 11:00 p.m. and 5:00 a.m. of the following day on Sunday through Thursday and 12:00 midnight and 5:00 a.m. of the following day on Friday and Saturday.

(Prior Code, § 8-7-2)

§ 131.02 EXCEPTIONS.

The restrictions above do not apply when the minor:

(A) Is accompanied by the minor's parent, guardian, or other person having the minor's lawful care, custody, or control;

(B) Is returning home by a direct route from and within 30 minutes after a school activity or a religious or other voluntary association when prior notice of the activity and its place and probable time of termination has been given to the Police Department by an adult person authorized by the school or religious or voluntary association to do so;

(C) Is employed and is on the way to or from that place of employment; and

(D) Is upon an emergency errand or other legitimate business directed by the minor's parent, legal guardian, or other adult having the lawful custody of the minor.

(Prior Code, § 8-7-2)

§ 131.03 RESPONSIBILITIES OF PARENT, GUARDIAN, OR CUSTODIAN.

No parent, guardian, or other adult having custody and control of a minor under the age of 16 years of age shall knowingly permit the minor to violate the provisions of this chapter. Any parent or guardian of any child under 16 years of age who shall allow or permit such minor to be in any park, or other public grounds or building, place of amusement, entertainment, or refreshment, vacant lot, or any unsupervised place within the city limits, are in violation of the foregoing sections and provisions of this chapter and shall be subject to penalty or penalties hereinafter provided.

(Prior Code, § 8-7-2) Penalty, see 131.99

§ 131.04 RESPONSIBILITY OF OTHERS.

It shall be unlawful for any person not the parent, guardian, or custodian as defined herein to accompany, loiter, or congregate with any minor under the age of 16 years in any park or other public grounds or building, place of amusement, entertainment or refreshment, vacant lot, or alley during the hours prohibited under the above sections, or the owner or operator of any motor vehicle during the hours prohibited by this chapter and shall be subject to the penalty or penalties hereinafter provided.

(Prior Code, § 8-7-2) Penalty, see 131.99

§ 131.99 PENALTY.

Any person who shall violate any of the provisions of this chapter shall be subject to fine and/or by imprisonment as set in § 10.99.

(Prior Code, § 8-7-2)

TITLE XV: LAND USAGE

Chapter

- 150. BUILDING CODES AND LICENSES
- 151. FLOOD DAMAGE PREVENTION
- 152. PLANNING AND ZONING

CHAPTER 150: BUILDING CODES AND LICENSES

Section

International Building Code

- 150.001 Adoption of International Building Code
- 150.002 Establishment of office of Zoning Administrator
- 150.003 Duties of Building Official
- 150.004 Right of entry
- 150.005 Definitions
- 150.006 Building permits required
- 150.007 Appeal
- 150.008 Building permit
- 150.009 Permissible wooden structures in fire limits

International Property Maintenance Code

- 150.020 Purpose
- 150.021 Adoption and revisions
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Electrical Code

- 150.035 Adoption of Electrical Code
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Plumbing Code

- 150.050 Adoption of National Plumbing Code
- 150.051 Title and scope
- 150.052 Repeal and interpretation

Licensing and Inspection

- 150.065 Definitions
- 150.066 License required
- 150.067 Licensed plumber, general regulations
- 150.068 Revoke license
- 150.069 Supervision

INTERNATIONAL BUILDING CODE

§ 150.001 ADOPTION OF INTERNATIONAL BUILDING CODE.

The International Building Code, 2012 edition, as published by the International Code Council Inc., and amendments and additions thereto, are hereby adopted by the city as provided by SDCL 9-33-4.1 for regulating the erection, construction, enlargement, alteration, repair, moving, removal, conversion, occupancy, equipment, use, height, area, and maintenance of all buildings or structures and providing for issuance of permits and collection of fees therefor. The minimum building standards in the 2018 editions of the International Building Code and amendments thereto shall be applied to any building permit issued after February 3, 2014. A printed copy of such Code and additions and amendments thereto is on file with the City Finance Officer.

(Prior Code, § 3-1-1) (Ord. 483, passed 1-6-2014)

§ 150.002 ESTABLISHMENT OF OFFICE OF ZONING ADMINISTRATOR.

The office of Building Official is hereby created and the executive official in charge shall be the Zoning Administrator.

(Prior Code, § 3-1-2)

§ 150.003 DUTIES OF BUILDING OFFICIAL.

It shall be the duty of the Zoning Administrator to enforce all laws relating to the construction, alteration, removal, and demolition of buildings and structures.

(Prior Code, § 3-1-3)

§ 150.004 RIGHT OF ENTRY.

The Zoning Administrator, in the discharge of his or her official duties, and upon proper identification, shall have authority to enter any building, structure, or premises at any reasonable hour.

(Prior Code, § 3-1-4)

§ 150.005 DEFINITIONS.

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

CORPORATION COUNSEL. The City Attorney for the City of Webster.

MUNICIPALITY. The City of Webster.

(Prior Code, § 3-1-5)

§ 150.006 BUILDING PERMITS REQUIRED.

(A) The Zoning Administrator, together with the Finance Officer, shall issue and sign permits according to the fee schedule set by the City Council and on file at the Finance Officer's office. The chapters and sections of the Code referring to permits is amended to read as follows.

(B) No wall, structure, building, or part of building shall be constructed or added to, or any permanent fixture, including heat producing appliances, heating, ventilating, air conditioning, blower, exhaust systems, or conversion units thereof attached to such building, 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 shall be submitted to the Building Official of the city, by the contractor, builder, or owner; which shall also state the value or cost of such improvement. If the Building Official is satisfied that said proposed improvement complies with the law and city ordinances, he or she may authorize issuing of a permit of such work, construction, or improvement.

(C) The Zoning Administrator shall endorse his or her approval or disapproval on the application for building permit. If he or she recommends disapproval on the application for permit, he or she shall state his or her reasons therefor in writing, and file the same with the City Finance Officer. The City Finance Officer shall present the application to the City Council at the next Council meeting, and if the City Council is satisfied that the said proposed improvement complies with the law and city ordinances, it shall authorize the City Finance Officer to issue a permit for such work, construction, or improvement.

(D) All permits shall recite therein the conditions and requirements under which the same are issued, one of which shall be that sidewalks, streets, alleys, and highways shall not be blocked, or partially blocked, unless permission is granted in the permit, and also that all debris shall be removed and not permitted to accumulate on the sidewalks, streets, alleys, or highways, and shall contain an agreement on the part of the applicant not to engage in any construction except in accordance with the permit and the provisions of this chapter. If the value or cost of the improvement for which a permit has been issued shall exceed the cost of the value of the amount stated in the application for permit and the permit granted, the contractor, or builder, shall furnish to the City Finance Officer an additional statement of the cost or value of such improvement.

(E) It shall be the duty of the City Finance Officer to keep a file of all plans, specifications, and work statements upon on

which building permits are granted, with an appropriate index for the same. No owner, 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 therefor.

(F) In addition to any other legal remedies open to the city, any person, owner, firm, or corporation violating any of the provisions of this section shall, upon conviction thereof, be subject to the penalties as set in this chapter.

(Prior Code, § 3-1-6) Penalty, see § 10.99

§ 150.007 APPEAL.

In case any difference should arise between the Zoning Administrator and the owner of any building, or any person engaged in or desirous of doing any construction, repair, alteration, moving, or demolition of buildings, regarding the interpretation of any of the provisions of this chapter, or the enforcement of the same, appeal may be made to the City Council, whose decision thereon shall be final.

(Prior Code, § 3-1-7)

§ 150.008 BUILDING PERMIT.

Upon the approval of the plans or work statement for the proposed improvement, the City Finance Officer shall furnish the applicant a building permit.

(Prior Code, § 3-1-8)

§ 150.009 PERMISSIBLE WOODEN STRUCTURES IN FIRE LIMITS.

No frame or wooden structure shall hereafter be built within the fire limits as defined herein, or as they may be hereafter established, except the following: temporary one story frame buildings for use of builders; and built by a retail lumberman upon his or her premises.

(Prior Code, § 3-1-9)

INTERNATIONAL PROPERTY MAINTENANCE CODE

§ 150.020 PURPOSE.

A certain document, three copies of which are on file in the City Finance Office, 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 for regulating and governing the conditions and maintenance of all property, buildings, and structures; by providing the standards for supplied utilities and 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; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions, and terms of said Property Maintenance Code on file in the City Finance Office are hereby referred to, adopted, and made a part hereof, as if fully set out in this subchapter, with the additions, insertions, deletions, and changes, if any, prescribed in § 150.021.

(Prior Code, § 6-15-1) (Ord. 483, passed 1-6-2014)

§ 150.021 ADOPTION AND REVISIONS.

The following sections are hereby revised:

- (A) Section 101.1: insert City of Webster;
- (B) Section 103.5; insert fees set by resolution #155 or any such future fee resolutions replacing resolution #155;
- (C) Section 112.4: insert \$25 and \$200, respectively;
- (D) Section 302.4: insert ten (10) inches;
- (E) Section 304.14: insert: May to October;
- (F) Chapter 4 - Light, Ventilation and Occupancy Limitations: remove entire Chapter 4;
- (G) Chapter 5 - Plumbing Facilities and Fixture Requirements: remove entire Chapter 5;
- (H) Chapter 6 - Mechanical and Electrical Requirements: remove entire Chapter 6;
- (I) Chapter 7 - Fire Safety Requirements: remove entire Chapter 7;
- (J) Chapter 8 - Referenced Standards: remove entire Chapter 8; and
- (K) Appendix A - Boarding Standard: remove entire Appendix.

(Prior Code, § 6-15-2) (Ord. 483, passed 1-6-2014)

§ 150.022 THE MEANS AND METHODS OF ENFORCEMENT.

(A) The means and methods of enforcement, plus the appeals process, is also consistent with the other current adopted Codes on file in the city ordinance book. In general, the IPMC addresses minimum safety standards for existing buildings and addresses the exterior of buildings and the properties on which buildings are located. This Code is consistent with the city's public nuisance ordinances regarding unlicensed/inoperable vehicles and the accumulation of rubbish and garbage. Again, this is a tool that can be used to abate a nuisance.

(B) Nothing in this subchapter 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; nor shall any just or legal right or remedy or any character be lost, impaired, or affected by this subchapter.

(Prior Code, § 6-15-3) (Ord. 483, passed 1-6-2014)

ELECTRICAL CODE

§ 150.035 ADOPTION OF ELECTRICAL CODE.

There is hereby adopted by the city for the purpose of establishing rules and regulations to govern the use of electricity for light, heat, power, radio, and for other purposes that certain electrical code known as the National Electrical Code, recommended the National Board of Fire Underwriters, being particularly the most current edition thereof and the whole thereof, save and except such portion as are hereafter deleted, modified, or amended of which a copy is on file in the office of the City Finance Officer and the same are hereby adopted and incorporated as fully as if set out at length herein, and from the date on which this subchapter shall take effect, the provisions thereof shall be controlling within the corporate limits of the city.

(Prior Code, § 4-1-1)

§ 150.036 TITLE AND SCOPE.

(A) *Title.*

(1) This Code shall be known as the "National Electrical Code", may be so cited, and will be referred to in this chapter as this Code.

(2) The administration and enforcement of this subchapter shall be the duty of the Building Official who is hereby authorized to take such action as may be reasonably necessary to enforce the purposes of this Code. Such persons may be appointed and authorized as assistants or agent of such administrative authority as may be necessary to carry out the provisions of this Code.

(B) *Scope.* The provisions of this Code shall apply to govern electrical work as defined in this Code, including the practice, materials, and fixtures used in all new installations, electrical conductors, fittings, devices, and fixtures for light, heat, and power service equipment and all equipment used for power supply to radio and television receiving systems and amateur radio transmission systems and buildings and structures; and all alterations and or extensions to existing wiring systems and within or adjacent to any building or other structure or conveyance or on any premises within the city limits of the city.

(C) *Exceptions.* No electrical work pertaining to light, heat, or power, or other purposes, shall be installed nor shall an alteration or an extension of an existing electrical system be made until a permit has been issued therefor as required in this Code except as herein specifically provided.

(D) *Public service agencies.* The provisions of this Code shall not apply to installations for electric supply or communication agencies in the generation, transmission, or distribution of electricity or the operation of signals or the transmission of intelligence or located within or on buildings or premises used exclusively by such agency or on public thoroughfares.

(E) *Railway utilities.* The provisions of the Code shall not apply to the installations or equipment employed by a railway utility in the exercise of its functions as a public carrier, located outdoors or in buildings used exclusively for that purpose.

(F) *Radio and television transmitting stations.* The provisions of the basic code shall not apply to electrical equipment used for radio or television transmission, except the equipment and wiring for power supply and the installation of radio or television towers and antennas, whether erected on buildings or on the ground.

(G) *Definitions.* The following terms, as defined herein, and as used in the Code are as follows (other terms are defined in Article 100 of the National Electrical Code, as adopted):

BUILDING SERVICE EQUIPMENT. The mechanical, electrical, and elevator equipment, including piping, wiring, fixtures, and other accessories, which provide sanitation, lighting, heating, ventilating, firefighting, and transportation facilities essential for the habitable occupancy of the building or structure for its designated use and occupancy.

ELECTRICAL EQUIPMENT. All installations of electrical conductors, fittings, devices, and fixtures within or on public and private buildings.

ELECTRICAL SERVICE EQUIPMENT. The equipment located at point of entrance off supply conductors to a building

which constitutes the main control of supply and means of cut-off of electricity, including circuit-breaker switches, fuses, and electrical accessories.

(Prior Code, § 4-1-2)

§ 150.037 ELECTRICIANS LICENSE REQUIRED.

(A) (1) No person, firm, or corporation shall be permitted to engage in a business of installing any electric wiring or construct or install electric apparatus or machinery in any building upon any premises within the limits of the city without first procuring a license from the City Council.

(2) Said license may be granted by the City Council to any person who is the holder of a valid license from the state under the provisions of SDCL 36-16-1 et seq., and such person shall, upon application for license, exhibit to the City Auditor satisfactory evidence of such license and that such license is in full force and effect.

(B) (1) Such application shall be accompanied by a license fee to be determined by the City Council for a license as Class B electrician, journeyman electrician, or electrical contractor as the case may be.

(2) Such license to expire December 31 following its issuance.

(Prior Code, § 4-1-3) Penalty, see § 10.99

PLUMBING CODE

§ 150.050 ADOPTION OF NATIONAL PLUMBING CODE.

There is hereby adopted by the City Council for the purpose of establishing rules and regulations governing plumbing as defined in this Code, including permits and penalties, that certain plumbing code known as "The National Plumbing Code" as adopted by the American Standards Association, being particularly the most recent edition thereof, and the whole thereof, excepting such portions as are hereinafter deleted, nullified, or amended, of which a copy is on file in the office of the Finance Officer of the city, and the same are hereby adopted and incorporated as fully as if set out at length herein and from the date on which this subchapter shall take effect, the provisions thereof shall be controlling pertaining to plumbing, as defined in this Code, within the corporate limits of the city.

(Prior Code, § 9-1-1)

§ 150.051 TITLE AND SCOPE.

(A) *Title.*

(1) This Code shall be known as "The National Plumbing Code", may be so cited, and will be referred to in this chapter as "this Code".

(2) The administration and enforcement of this subchapter shall be the duty of the City Council who is hereby authorized to take such actions as may be reasonably necessary to enforce the purposes of this Code. Such persons may be appointed and authorized as assistants or agents of such administrative authority as may be necessary to carry out the provisions of this Code.

(B) *Scope.* The provisions of this Code shall apply to govern plumbing as defined in this Code, including the practice, materials, and fixtures used in the installation, maintenance, extension, and alteration of all piping, fixtures, appliances, and appurtenances in connection with any of the following: sanitary drainage or storm drainage facilities, the venting system, and the public or private water supply systems, within or adjacent to any building or other structure, or conveyance; also the practice and materials used in the installation, maintenance, extension, or alteration of the storm water or sewage system of any premises to their connection with any point of public disposal or other terminal.

(C) *Facilities.* It is recognized that certain facilities in or adjacent to public streets that are referred to in this Code are only partially owned or controlled by the owner or occupants of the building or premises to which this Code applies.

(Prior Code, § 9-1-2)

§ 150.052 REPEAL AND INTERPRETATION.

All ordinances or parts of ordinances in conflict with the provisions of the National Plumbing Code are hereby repealed, and in the event any ordinance or part of ordinance of the city is inconsistent in any manner with the provisions of said National Plumbing Code, then in that case the provisions of the National Plumbing Code shall govern.

(Prior Code, § 9-1-3)

LICENSING AND INSPECTION

§ 150.065 DEFINITIONS.

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

PLUMBING. The professional, art, trade of, and all work done and all matters used in and for introducing, maintaining, and

extending a supply of water through a pipe or pipes or any appurtenances thereof in a building, structure, or establishment; installing, connecting, or repairing any system of drainage whereby foul waste, rain or surplus water, gas, odor, vapor, or fluid is discharged or proposed to be discharged through a pipe or pipes from any building, structure, or establishment; connecting with any building, structure, or establishment with any service pipe, public main, or other underground structure; and performing all classes of work generally done by plumbers, including the installation of water heaters or water heating equipment.

PLUMBING SYSTEM OF A BUILDING. Includes the water supply distributing pipes; the fixtures and fixture traps; the soil wastes and vent pipes; the house drain and house sewer; the storm water drainage with their devices; and appurtenances and connections all within or adjacent to the building structure or premises.

(Prior Code, § 9-2-1)

§ 150.066 LICENSE REQUIRED.

No person shall engage in the business without first securing a license from the City Council as provided for in this subchapter. This section shall not, however, apply to any individual engaged in the plumbing work as an apprentice under the direct supervision and control of a master plumber.

(Prior Code, § 9-2-2) Penalty, see § 10.99

§ 150.067 LICENSED PLUMBER, GENERAL REGULATIONS.

(A) Every licensed master plumber shall be held responsible for the acts of his or her journeyman plumbers, agents, or employees done under and by virtue of his or her license. Any change in business name or location by a licensed plumber shall be promptly reported to the Finance Officer.

(B) The plumbing license shall be posted in a conspicuous place in the place of business of the licensee. No plumbing license shall be transferable.

(Prior Code, § 9-2-3)

§ 150.068 REVOKE LICENSE.

In addition to other penalties imposed, the City Council may revoke the license of any plumber for violation of any provisions of this subchapter by such plumber or his or her employee.

(Prior Code, § 9-2-4)

§ 150.069 SUPERVISION.

All plumbing work in process of construction, alteration, or repair shall be under the supervision of the Water/Sewer Department, which is empowered to stop such work when it is being done contrary to the provisions of this subchapter.

(Prior Code, § 9-2-5)

CHAPTER 151: FLOOD DAMAGE PREVENTION

Section

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GENERAL PROVISIONS

§ 151.001 STATUTORY AUTHORIZATION.

The State Legislature has, in SDCL 9-36 and amendments thereto, delegated the responsibility to local government units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City Council does ordain as follows.

(Ord. 400A, passed 8-6-2001)

§ 151.002 FINDINGS OF FACT.

(A) The flood hazard areas of the city are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(B) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazard which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately flood-proofed, elevated, or otherwise protected from flood damage also contribute to the flood loss.

(Ord. 400A, passed 8-6-2001)

§ 151.003 STATEMENT OF PURPOSE.

It is the purpose of this chapter to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions to specific areas by provisions designed:

- (A) To protect human life and health;
- (B) To minimize expenditure of public money for costly flood control projects;
- (C) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (D) To minimize prolonged business interruptions;
- (E) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;
- (F) To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;

(G) To ensure that potential buyers are notified that property is in an area of special flood hazard; and

(H) To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

(Ord. 400A, passed 8-6-2001)

§ 151.004 METHODS OF REDUCING FLOOD LOSSES.

In order to accomplish its purposes, this chapter includes methods and provisions for:

(A) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

(B) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(C) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers which help accommodate or channel flood waters;

(D) Controlling filling, grading, dredging, and other development which may increase flood damage; and

(E) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

(Ord. 400A, passed 8-6-2001)

§ 151.005 DEFINITIONS.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

APPEAL. A request for a review to the City Finance Officer interpretation of any provisions of this chapter or a request for a variance.

AREA OF SPECIAL FLOOD HAZARD. The land in the floodplain subject to a 1% or greater chance of flooding in any given year.

BASE FLOOD. The flood having a 1% chance of being equalled or exceeded in any given year.

DEVELOPMENT. Any human-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations located within the area of special flood hazard.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. A manufactured home park for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) are completed before the effective date of this chapter.

EXPANSION TO EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FLOOD or FLOODING. A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters; and/or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD INSURANCE RATE MAP (FIRM). The official map on which the Federal Emergency Management Agency has delineated both the areas of special food hazards and the risk premium zones.

FLOOD INSURANCE STUDY. The official report provided by the Federal Emergency Management Agency that includes flood profiles, the flood boundary-floodway map, and the water surface elevation of the base flood.

LOWEST FLOOR. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's **LOWEST FLOOR**, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

MANUFACTURED HOME. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term **MANUFACTURED HOME** does not include a **RECREATIONAL VEHICLE**.

NEW CONSTRUCTION. Structures for which the "start of construction" commenced on or after the effective date of the original ordinance codified herein, and includes any subsequent improvements to such structures.

NEW MANUFACTURED HOME PARK OR SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of these floodplain management regulations.

RECREATIONAL VEHICLE. A vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projections;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

START OF CONSTRUCTION. Includes substantial improvement, and means the date the building permit was issued, provided the actual **START** of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual **START** means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual **START OF CONSTRUCTION** means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE. A walled and roofed building or manufactured home that is principally above ground.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

VARIANCE. A grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

(Ord. 400A, passed 8-6-2001)

§ 151.006 APPLICATION.

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the city.

(Ord. 400A, passed 8-6-2001)

§ 151.007 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for the City of Webster" dated December 6, 2001, with an accompanying Flood Insurance Rate Map (FIRM), is hereby adopted by reference and declared to be a part of this chapter. The Flood Insurance Study and FIRM are on file at 800 Main St., Webster, SD.

(Ord. 400A, passed 8-6-2001)

§ 151.008 COMPLIANCE.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations.

(Ord. 400A, passed 8-6-2001) Penalty, see § 10.99

§ 151.009 CONFLICT OF LAW.

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Ord. 400A, passed 8-6-2001)

§ 151.010 INTERPRETATION.

In the interpretation and application of this chapter, all provisions shall be:

- (A) Considered as minimum requirements;
- (B) Liberally construed in favor of the governing body; and
- (C) Deemed neither to limit nor repeal any other powers granted under state statutes.

(Ord. 400A, passed 8-6-2001)

§ 151.011 WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by human-made or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the city, any officer or employee thereof, or the Federal Emergency Management Agency for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

(Ord. 400A, passed 8-6-2001)

ADMINISTRATION

§ 151.025 ESTABLISHMENT OF DEVELOPMENT PERMIT.

(A) A development permit shall be obtained before construction or development begins within any area of special flood hazard established in § 151.007.

(B) Application for a development permit shall be made on forms furnished by the City Finance Officer and may include, but not limited to, plans in duplicate drawn to scale showing the nature, locations, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

- (1) Elevation in relation to mean sea level of the lowest floor (including basement) of all structures;
- (2) Elevation in relation to mean sea level to which any structure has been flood-proofed;
- (3) Certification by a registered professional engineer or architect that the flood-proofing methods for any nonresidential structure meet the flood-proofing criteria in § 151.077; and
- (4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(Ord. 400A, passed 8-6-2001)

§ 151.026 DESIGNATION OF CITY FINANCE OFFICER.

The City Finance Officer is hereby appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

(Ord. 400A, passed 8-6-2001)

§ 151.027 DUTIES AND RESPONSIBILITIES OF THE CITY FINANCE OFFICER.

Duties of the City Finance Officer shall include, but not be limited to the following.

(A) *Permit review.*

- (1) Review all development permits to determine that the permit requirements of this chapter have been satisfied;
- (2) Review all development permits to determine that all necessary permits have been obtained from federal, state, or local governments agencies from which prior approval is required; and
- (3) Review all development permits to determine if the proposed development adversely affects the flood-carrying capacity of the area of special flood hazard. For purposes of this chapter, **ADVERSELY AFFECTS** means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point.

(B) *Use of other base flood data* When base flood elevation data has not been provided in accordance with §151.007, the City Finance Officer shall obtain, review, and reasonably utilize any base flood elevation and flood way data available from any federal, state, or other source as criteria for requiring that new construction, substantial improvements, or other development in Zone A are administered in accordance with §§ 151.075 to 151.079.

(C) *Information to be obtained and maintained.*

(1) Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement;

(2) For all new or substantially improved flood-proofed structures:

(a) Verify and record the actual elevation (in relation to mean sea level) to which the structure has been flood-proofed; and

(b) Maintain the flood-proofing certifications required in § 151.025(B)(3).

(3) Maintain for public inspection all records pertaining to the provisions of this chapter.

(D) *Alteration of watercourses.*

(1) Notify adjacent communities and the state's Coordinating Office prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency; and

(2) Require that maintenance is provided within the altered or relocated portion of said water course so that the flood-carrying capacity is not diminished.

(E) *Interpretation of FIRM Boundaries.* Make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in §§ 151.040 and 151.041.

(Ord. 400A, passed 8-6-2001)

VARIANCE PROCEDURE

§ 151.040 APPEAL BOARD.

(A) The City Council, as established by the city, shall hear and decide appeals and requests for variances from the requirements of this chapter.

(B) The City Council shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the City Finance Officer in the enforcement or administration of this chapter.

(C) Those aggrieved by the decision of the City Council, or any taxpayer, may appeal such decisions to the Fifth Judicial Circuit Court as provided in SDCL 11-4-25.

(D) In passing upon such applications, the City Council shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:

(1) The danger that materials may be swept onto other lands to the injury of others;

(2) The danger to life and property due to flooding or erosion damage;

(3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners;

(4) The importance of the services provided by the proposed facility to the community;

(5) The necessity to the facility of a waterfront locations, where applicable;

(6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

(7) The compatibility of the proposed use with the existing and anticipated development;

(8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(9) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(10) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

(11) The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities, such as sewer, gas, electrical, and water systems, streets, and bridges.

(E) Upon consideration of the factors of division (D) above and the purposes of this chapter, the City Council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

(F) The City Finance Officer shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Emergency Management Agency.

(Ord. 400A, passed 8-6-2001)

§ 151.041 CONDITIONS OF VARIANCES.

(A) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-

half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items § 151.040(D) have been fully considered. As the lot size increases beyond the one-half acre, the technical justifications required for issuing the variance increases.

(B) Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places without regard to the procedures set forth in the remainder of this section.

(C) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(D) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(E) Variances shall only be issued upon:

(1) A showing of good and sufficient cause;

(2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

(3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expenses, create nuisances, cause fraud on or victimization of the public as identified in § 151.040(D), or conflict with existing local laws or ordinances.

(F) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk from the reduced lowest floor elevation.

(Ord. 400A, passed 8-6-2001)

PROVISIONS FOR FLOOD HAZARD REDUCTION

§ 151.055 GENERAL STANDARDS.

In all areas of special flood hazard, the following standards are required.

(Ord. 400A, passed 8-6-2001)

§ 151.056 ANCHORING.

(A) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure and capable of resisting the hydrostatic and hydrodynamic loads.

(B) All manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement and capable of resisting the hydrostatic and hydrodynamic loads. Methods of anchoring may include, but are not limited to use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces. Specific requirements may be:

(1) Over-the-top ties be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations, with manufactured homes less than 50 feet long requiring one additional tie per side;

(2) Frame ties be provided at each corner of the home with five additional ties per side at intermediate points, with manufactured homes less than 50 feet long requiring four additional ties per side;

(3) All components of the anchoring system shall be capable of carrying a force of 4,800 pounds; and

(4) Any additions to the manufactured home be similarly anchored.

(Ord. 400A, passed 8-6-2001)

§ 151.057 CONSTRUCTION MATERIALS AND METHODS.

(A) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(B) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(C) All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(Ord. 400A, passed 8-6-2001)

§ 151.058 UTILITIES.

(A) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters

into the system.

(B) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.

(C) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(Ord. 400A, passed 8-6-2001)

§ 151.059 SUBDIVISION PROPOSALS.

(A) All subdivision proposals shall be consistent with the need to minimize flood damage.

(B) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

(C) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

(D) Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least 50 lots or five acres, whichever is less.

(Ord. 400A, passed 8-6-2001)

§ 151.060 ENCROACHMENTS.

The cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.

(Ord. 400A, passed 8-6-2001)

SPECIFIC STANDARDS

§ 151.075 GENERALLY.

In all areas of special flood hazard where base flood elevation data has been provided as set forth in §§151.007 or 151.027(B), the following provisions are required.

(Ord. 400A, passed 8-6-2001)

§ 151.076 RESIDENTIAL CONSTRUCTION.

New construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated to or above the base flood elevation.

(Ord. 400A, passed 8-6-2001)

§ 151.077 NONRESIDENTIAL CONSTRUCTION.

New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall either have the lowest floor (including basement) elevated to the level of the base flood elevation, or, together with attendant utility and sanitary facilities, shall:

(A) Be flood-proofed so that below the base flood elevation the structure is water-tight with walls substantially impermeable to the passage of water;

(B) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

(C) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certifications shall be provided to the official as set forth in § 151.027(C)(2).

(Ord. 400A, passed 8-6-2001)

§ 151.078 MANUFACTURED HOMES.

(A) Manufactured homes shall be anchored in accordance with §151.056(B).

(B) All manufactured homes or those to be substantially improved shall conform to the following requirements:

(1) Require that manufactured homes that are placed or substantially improved on a site outside of a manufactured home park or subdivision, in a new manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement; and

(2) Require that manufactured homes to be placed or substantially improved on sites in existing manufactured home

parks or subdivisions that are not subject to the provision in division (B)(1) above be elevated so that either the lowest floor of the manufactured home is at or above the base flood elevation, or the manufactured home chassis is supported by reinforced piers or other foundation elements that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(Ord. 400A, passed 8-6-2001)

§ 151.079 RECREATIONAL VEHICLES.

Require that recreational vehicles either be on the site for fewer than 180 consecutive days, be fully licensed and ready for highway use, or meet the permit requirements and elevation and anchoring requirements for resisting wind forces.

(Ord. 400A, passed 8-6-2001)

CHAPTER 152: PLANNING AND ZONING

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GENERAL PROVISIONS

§ 152.001 SHORT TITLE.

This chapter shall be known and shall be cited and referred to as “The Zoning Ordinance of Webster, South Dakota” to the same effect as if full titles were stated.

(Prior Code, § 14-1) (Ord. 477, passed 2-1-2013)

§ 152.002 SETTING OF REGULATIONS.

(A) The regulations for the zoning districts as herein set forth are made in accordance with a comprehensive plan for the purpose of promoting the public health, safety, and general welfare of the community. They are designed to lessen congestion in the streets, to secure safety from fire, panic, and other dangers, to provide adequate light and air, to prevent overcrowding of land, to avoid undue concentration of population and to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. They are made with responsible considerations, among other things, as to the character of each district and its particular uses and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the city.

(B) This chapter regulates the location, size, use, and height of buildings, the arrangement of buildings on lots, the size of yards and other open spaces, the location and use of buildings, structures, and land for trade, industry, residence, and other purposes; establishing the boundaries of districts for said purposes and providing fines and penalties for violations, so as to promote the public health, safety, order, convenience, prosperity, and general welfare of the city.

(Prior Code, § 14-2-2.0101) (Ord. 477, passed 2-1-2013)

§ 152.003 GRANDFATHER CLAUSE.

All lots, land uses, and structures existing prior to the adoption of this chapter will be allowed to continue. However, nonconforming uses, lots, structures, and characteristics will be subject to the conditions § 10.99.

(Prior Code, § 14-2-2.0102) (Ord. 477, passed 2-1-2013)

§ 152.004 JURISDICTION DEFINED.

The provisions of this chapter apply within the corporate limits of the city, and within the one mile territory beyond said corporate limits, per SDCL 9-29-1, as now or hereafter fixed, established on the map entitled "The Official Zoning Map of the City of Webster, South Dakota", as the same may be amended by subsequent annexation. Said map and amendments thereto and all explanatory matter thereof accompanies and is hereby made a part of this chapter. Said map shall be on file in the office of the City Finance Officer.

(Prior Code, § 14-3-3.0101) (Ord. 477, passed 2-1-2013)

§ 152.005 JURISDICTION OUT OF CORPORATE LIMITS.

The area of joint control shall require action jointly by the City Planning Commission and the County Planning Commission.

(Prior Code, § 14-3-3.0102) (Ord. 477, passed 2-1-2013)

§ 152.006 INTERPRETATION.

For the purpose of this chapter, unless otherwise stated, words used in the present tense include the future; the singular number includes the plural, and the plural the singular; the word **SHALL** is mandatory, not discretionary; the word **MAY** is permissive; the word **PERSON** includes a firm, association, organization, partnership, trust, limited liability company, or corporation, as well as an individual; the word **LOT** includes the words plat or parcel; and the words **USED** or **OCCUPIED** include the words intended, designed, or arranged to be used or occupied.

(Prior Code, § 14-5-5.0101) (Ord. 477, passed 2-1-2013)

§ 152.007 DEFINITIONS.

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

ACCESSORY USE OR STRUCTURE.

(1) A use or structure on the same lot with and of a nature customarily incidental and subordinate to the principal use or structure. **ACCESSORY BUILDING** is defined as an unattached structure used for purposes other than a residence.

(2) **ACCESSORY BUILDING** shall not exceed a height of 18 feet to peak of the structure. The minimum setback distance shall be the same as those for residences and/or private garages.

(3) No **ACCESSORY BUILDING** or private garage shall be constructed, replaced, or moved in until the following is complied with: the structure shall not exceed a length of 36 feet or a width of 32 feet and shall have a maximum height of 18 feet above ground level. All **ACCESSORY BUILDINGS OR GARAGES**, whether they are to be newly constructed, replaced, or moved in shall be of materials which are of the same or similar composition as the existing residences on the same lot. In the event there are no other structures on the lot where the building is to be placed, said building shall be constructed of materials common to the area, with the exception of small utility buildings not to exceed 120 square feet. Colored steel shall be allowed to be placed vertically sided on accessory buildings. The colors of steel used shall be common colors of the neighboring properties.

(4) Said building may only be for the private use of the owner and not for commercial purposes with the exception of storage.

(5) Residential buildings will only be allowed to be constructed, replaced, or moved in when they are in compliance with the following: the structure or attachments (decks or entrances) shall have a minimum setback distance of 25 feet from the frontal lot line. (All setback distances referred to for buildings shall be to the closest point of the structure). However, in the event other structures exist on the adjoining lots, said building shall not extend to the street side beyond the existing frontal structure line. The side lot setback distance shall be a minimum of five feet.

ADJACENT PROPERTY. Properties connecting without regard for streets, alleys, or public right-of-way that divide the properties.

ADJOINING PROPERTY. Properties connecting with a side in common.

BOULEVARD AREA. Street right-of-way from the curbline (whether there is curb and gutter installed or not) of the surfaced street to the property line. Generally on a 66-foot residential street right-of-way, there shall be 15 feet on each side of the street for open space and public sidewalk. The surface may be of any appropriate surfacing material to assure compliance with soil erosion and sedimentation control standards, often this is landscaped. It is maintained by the property owner, but ownership remains with the city.

BUILDING. Includes the word **STRUCTURE** and is a structure which is entirely separated from any other structure by space or by walls in which there are no communicating doors or windows or similar openings. Within a principal building, including covered porches and paved patios, is the principal use of the lot on which it is situated. In any residential district, any dwelling shall be deemed to be the principal building on the lot on which the same is situated.

CITY COUNCIL. The Webster City Council.

BUILDING AREA. The portion of a lot remaining after providing for the required yards.

COMMISSION. Webster City Planning and Zoning Commission.

CONDITIONAL USE. A use that would not be appropriate generally or without restriction throughout the zoning district, but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, and welfare. Such uses may be permitted in such zoning district as a **CONDITIONAL USE**.

CORNER LOT. Residence facing on the long side of lot. In the event of a residential building being constructed, replaced, or moved in on a **CORNER LOT**, the minimum setback distance of the side lot abutting a street shall be ten feet. The setback distance on the frontal side shall be a minimum of 25 feet from the property line. There shall be a minimum setback distance of ten feet from the property line on the back side (backyard) and a minimum setback distance of five feet from the remaining lot and/or alley side. In no case shall any building be constructed, replaced, or moved in which extends beyond the existing structure line on any street side.

DWELLING, DUPLEX. A residential dwelling unit designed for two families living independently of each other.

DWELLING, MULTIPLE-FAMILY. A residential dwelling designed for two or more families living independently of each other and doing own cooking in said building.

DWELLING, SINGLE-FAMILY. A detached residential dwelling unit other than a mobile home, designed for one family.

DWELLING UNIT. One room or rooms, connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or long-term basis, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking, bathroom, and sleeping facilities.

FEEDLOT, COMMERCIAL. A place where the principal business is the feeding of livestock and such feeding is not done as a subordinate activity to the production of crops on the premises of which the feedlot is a part.

FENCE.

(1) An enclosure about a field or other space, or about any object; especially, an inclosing structure of wood, iron, or other material, intended to prevent intrusion from without or straying from within. It must be constructed of the same material throughout.

(2) No person, firm, or corporation shall hereafter construct, erect, or maintain or cause to be constructed, erected, or maintained in the city any **FENCES** of any character or material, exceeding seven feet in height, above the sidewalk or the surface of any lot or parcel of ground; provided, that any such **FENCE** so constructed, erected, or maintained shall not exceed five feet in height when the same is within 40 feet of the street line, and provided further, that no **FENCE** or any part thereof shall be constructed of barbed wire. Only fencing construction materials customarily used within a specific zoning district shall be used. Residential Zoning District may use wood, wood panel, vinyl, or chain link, but not steel panel fencing. **FENCES** must be set back at least two feet from the side lot line and five feet from the alley way to allow for maintenance. Visibility at intersections must be addressed and maintained. On any corner lot, no **FENCE** shall be constructed which may cause danger to traffic on a street by obscuring the view. A written agreement (variance) with the abutting landowner is required if **FENCE** is to be placed closer than two feet to the side lot line. **FENCE** may be placed on the property line when the fencing project is shared between property owners. **FENCES** may be placed on the lot line in business, commercial, and industrial zoned property, however, **FENCES** located on lots adjacent to a residential district shall be located so as to conform on the adjacent side with the side and rear yard requirements for the adjacent residential district. Hedges or other plantings which create a fence effect are subject to the same regulations as **FENCES**. No **FENCE** shall be constructed or erected without first obtaining a building permit. Fencing around athletic facilities and public property shall be exempt from the requirements of this chapter.

FLOOR AREA. The sum of all gross horizontal enclosed area of the several floors of a building and its accessory building on the same lot excluding basement floor areas and non-enclosed portions of the structure. All dimensions shall be measured between exterior faces of walls.

HOME OCCUPATION. An occupation conducted in a dwelling unit provided that:

(1) No more than one other person, in addition to members of the family, residing on the premises shall be engaged in such occupation;

(2) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 30% of the floor area of the dwelling shall be used in conduct of the **HOME OCCUPATION**;

(3) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such **HOME OCCUPATION** other than one sign, not exceeding one square foot in area, non-illuminated and mounted flat against the wall of the principal building;

(4) No traffic shall be generated by such **HOME OCCUPATION** in greater volumes than would normally be accepted in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard; and

(5) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to normal senses off the lot, if the occupation is conducted in a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

HORTICULTURE. The art or science of growing flowers, fruits, and vegetables.

JUNKYARDS. The use of more than 750 square feet of open storage on any lot, portion of a lot, or tract of land for the sale, storage, keeping, or abandonment of junk, scrap metals, or salvageable materials, or for the abandonment, dismantling, or wrecking of automobiles or other vehicles, machines, or parts thereof.

KENNEL. Any lot, structure, or premises where up to three licensed dogs and/or cats over the age of three months are kept.

LOT. A parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such **LOT** shall have frontage on an improved public street, or an approved private street, and may consist of:

- (1) A single lot of record;
- (2) A portion of a lot of record;
- (3) A combination of portions and/or complete lots of record; and

(4) A parcel of land described by metes and bounds; provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this chapter.

LOT FRONTAGE. The front of a lot shall be construed to be the portion nearest the street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered **FRONTAGE**, and yards shall be provided as indicated under **YARDS** as defined herein.

LOT MEASUREMENTS. Depth of a lot shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear; and width of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard.

LOT TYPES. Any lot within the jurisdiction of this chapter shall be one of the following types.

(1) **CORNER LOT.** A lot located at the intersection of two or more streets. A lot abutting a curved street or streets shall be considered a **CORNER LOT** if straight lines drawn from the foremost points of the side of lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees.

(2) **INTERIOR LOT.** A lot other than a corner lot with only one frontage on a street.

(3) **THROUGH LOT.** A lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots.

MANUFACTURED HOUSING. Include double wide mobile homes, modular homes, prefabricated homes, prebuilt homes, package, or kit homes. **MANUFACTURED HOMES** shall constitute single-family and two-family dwellings for purposes of this chapter if said dwelling has a minimum width of 23 feet, is covered with conventional siding, has a shingled or other suitable roofing material as commonly found on homes built on site with a pitched roof which stands on a permanent foundation, with or without a basement, and is taxed as real estate. All **MANUFACTURED HOMES** as herein before described shall consist of units produced in a factory or other building location and then moved to erection site all of which are produced in accordance with the Federal Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. §§ 5401 et seq.) as amended or the Uniform Building Code (International Conference of Building Officials) and then transported to the site and designed for long-term residential use.

MOBILE HOME. A one-family dwelling unit of vehicular, portable design, built on a chassis and designed to be moved from one site to another and to be used without permanent foundation and regardless of whether or not such wheels have been removed. This definition applies to single width, eight feet, ten feet, 12 feet, 14 feet, 16 feet, or such other single width trailers as may appear. Regardless if a permanent foundation is placed under the **MOBILE HOME** as defined above and regardless if the mobile home is subsequently taxed as real property, the above-described dwelling unit shall remain a **MOBILE HOME** for purpose of this chapter. Single trailers or **MOBILE HOMES** will be permitted only in designated mobile home parks. This definition shall not be construed as to include manufactured modular, prefabricated, precut, prebuilt, packaged, or kit housing or dwelling units, as hereinbefore defined, all of which are built away from the site and transported to the site for erection, provided that when completely erected, said manufactured modular, precut, prefabricated, prebuilt, packaged, or kit housing or dwelling unit shall be on a permanent foundation and taxed as real property.

MOBILE HOME PARK.

(1) Any premises where one or more mobile homes are parked for living or sleeping purposes, or any premises used or set apart for supplying to the public, parking space for one or more mobile homes for living or sleeping purposes, and which include any buildings, structures, vehicles, or enclosure used or intended for use, or intended wholly or in part, for the accommodation of automobile transients.

(2) All trailer home sites established prior to the effective date of this chapter, even though located in an area in which said trailer home site is prohibited, shall not be affected by the location provisions of this section, but shall be required to comply with all other provisions of this chapter; provided, however, that any trailer home site located in an area prohibited by this section if abandoned by removal of said trailer coach shall thereafter come within the provisions of this chapter and shall not again be occupied as a trailer home site.

NONCONFORMING USE. Any building or land unlawfully occupied by a use at the time of passage of this chapter, which does not conform after passage of this chapter.

PERFORMANCE STANDARDS. It is a criterion established for the purpose of:

- (1) Assigning proposed industrial uses to proper districts; and
- (2) Making judgments in the control of noise, odor, smoke, toxic matter, vibration, fire and explosive hazards, or glare generated by, or inherent in, uses of land or buildings.

PRINCIPAL OR PRIMARY USE OR STRUCTURE. The main use or structure of the lot as permitted in the district where the lot is situated. In any residential district, any dwelling shall be deemed to be the **PRINCIPAL BUILDING** on the lot on which the same is situated.

PUBLIC SIDEWALKS. A permanent smooth, hard surfaced area maintained for walking by the public. The construction of all sidewalks and curbing, whether to be done by direct contract with the city or by contract with the 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. The City Council may condemn work and material not in accordance with the requirements of said specifications.

PUBLIC UTILITY SUBSTATION. An area where facilities are provided for the distribution of telephone, radio communications, water, gas, and electricity. These facilities shall be permitted as a conditional use in the various zoning districts subject to conditions which will assure their harmony, especially aesthetically with the nature of the respective districts.

SECONDARY USE OR STRUCTURE. See **ACCESSORY USE OR STRUCTURE**.

SECURITY FENCE. A solid fence that is constructed to completely obstruct all visibility through it. The **FENCE** shall be constructed of metal fencing, deck materials, wood, or lumber that is placed closely enough together so there will not be any openings in the **FENCE**. The entire length of the **FENCE** shall be constructed of the same materials and shall be aesthetically similar to the buildings, fences, and structures of the surrounding property.

SHELTER BELT. A strip or belt of trees or shrubs established to reduce soil erosion and to protect yards, lots, buildings, livestock, residences, recreation areas, and wildlife from the wind.

SIGNS. Any device designed to inform or attract the attention of persons not on the premises on which the sign is located, provided, however, that the following shall not be included in the application of the regulations herein:

- (1) Signs not exceeding one square foot in area and bearing only property numbers, post box number, names of occupants or premises, or other identification of premises not having commercial connotations;
- (2) Flags and insignia of any government except when displayed in connection with commercial promotion;
- (3) Legal notices; identification, informational, or directional signs erected or required by governmental bodies;
- (4) Integral decorative or architectural features of buildings, except letters, trademarks, moving parts, or moving lights; and
- (5) Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.

SIGN, OFF-SITE. A sign other than an exterior or interior on-site sign. **OFF SITE SIGNS** are more conventionally known as **BILLBOARDS** regardless of size.

SIGN, ON-SITE, EXTERIOR. An exterior sign relating to its subject to the premises on which it is located, or to products, accommodations, services, or activities on the premises. **EXTERIOR ON-SITE SIGNS** do not include signs erected by the outdoor advertising industry in the conduct of the outdoor advertising business, such as billboards which are off-site signs.

SPECIAL EXCEPTION. A use that would not be appropriate generally or without restriction throughout the zoning district, but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in such zoning district as **SPECIAL EXCEPTIONS**, if specific provisions for such special exception are made in this chapter.

STREET LINE. The lot line abutting right-of-way line (front property line).

STRUCTURE. Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, **STRUCTURES** include buildings, mobile homes, walls, signs, billboards, and poster panels.

TEMPORARY STRUCTURE. A structure which will be at a location for one year or less. **TEMPORARY STRUCTURES** are not considered permanent uses. Storage pods and storage containers are defined as **TEMPORARY STRUCTURES** in

residential areas. Minimum setback distance shall be the same as those for residences and/or private garages as established in the definition of accessory use or structure above. Placement will be considered by the City Council upon completion of a temporary building permit and shall include a start and end date for placement of the **TEMPORARY STRUCTURE**. Temporary building permits are subject to the same fee structure for building permits on file in the city office.

TRAVEL TRAILER. A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel and/or recreational purpose.

TRUCK OR EQUIPMENT TERMINAL. Any lot, structure, or premises used for the parking or storage of capital equipment such as trucks, trailers, or other like equipment.

UTILITY SUBSTATION. See **PUBLIC UTILITY SUBSTATIONS**.

VARIANCE. A relaxation of the terms of this chapter where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. As used in the ordinance, a **VARIANCE** is authorized only for height, area, and size of structure or size of yards and open spaces. Establishment or expansion of a use otherwise prohibited shall not be allowed by **VARIANCE**, nor shall a variance be granted because of the presence of non-conformities in the zoning district or uses in an adjoining zoning district. This is not to be confused with a special exception.

YARD. A required open space other than a court, unoccupied and unobstructed by any structure or portion of a structure from 30 inches above the grade of the lot upward, provided, however, that fences, walls, poles, posts, and other customary yard accessories, ornaments, and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility.

YARD, FRONT.

(1) A yard extending between side lot lines across the front of a lot adjoining a public street.

(2) In the case of corner lots, a **FRONT YARD** of the required depth shall be provided in accordance with the prevailing yard pattern; and a second front yard of minimum of ten feet depth from lot line (side lot) of what is required generally for front yards in the district shall be provided on the other frontage.

YARD, REAR. A yard extending across the rear of the lot between inner side yard lines. In the case of through lots and corner lots, there will be no **REAR YARDS**, but only front and side yards. Depth of a required **REAR YARD** shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the rear lot line.

YARD, SIDE. A yard extending from the far line of the required front yard to the rear lot line.

ZONING BODY. Appointed by the City Council, and is responsible for carrying out the rules and regulations of this chapter.

(Prior Code, § 14-5-5.0102) (Ord. 477, passed 2-1-2013)

OFFICIAL ZONING MAP

§ 152.020 GENERALLY.

(A) The city is hereby divided into districts as shown on the official zoning map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this chapter.

(B) The official zoning map shall be identified by the signature of the Mayor, attested by the City Finance Officer, and bearing the seal of the city under the following words: "This is to certify that this is the Official Zoning Map referred to in §§ 152.020 to 152.023 enacted by Ordinance No. – adopted (date).

(Prior Code, § 14-4-4.0101) (Ord. 477, passed 2-1-2013)

§ 152.021 ZONING MAP CHANGES.

(A) If, in accordance with the provisions of this chapter, changes are made in the district boundaries or other matter portrayed on the official zoning map, such changes shall be entered on the official zoning map promptly after the amendment has been approved by the City Council with entry on the official zoning map as follows: "On (date), by the official action of the City Council, the following (change(s)) were made in the Official Zoning Map (brief description of nature of change), which entry shall be signed by the Mayor and attested by the City Finance Officer. No amendment to this chapter which involves matter portrayed on the Official Zoning Map shall become effective until after such change and entry has been made on said map.

(B) No changes of any nature shall be made in the official zoning map or matter shown thereon except in conformity with the procedures set forth in this chapter.

(C) Regardless of the existence of purported copies of the official zoning map which may, from time to time, be made or published, the official zoning map, which shall be located in the office of the City Finance Officer, shall be the final authority as to the current zoning status of land and water, buildings, and other structures in the city.

(Prior Code, § 14-4-4.0102) (Ord. 477, passed 2-1-2013)

§ 152.022 ZONING MAP REPLACEMENT.

(A) In the event that the official zoning map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the City Council may, by ordinance, adopt a new/updated zoning map, that will supersede the prior official zoning map. The new official map shall be identified by the signature of the Mayor, attested by the City Finance Officer, and bearing the seal of the city under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of zoning map being replaced) as part of Ordinance No. – of Webster, South Dakota."

(B) Unless the prior official zoning map has been lost or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved together with all available records pertaining to its adoption or amendment.

(Prior Code, § 14-4-4.0103) (Ord. 477, passed 2-1-2013)

§ 152.023 ZONING MAP.

(A) The zoning map is changed and established new boundaries for the following districts: residential districts, business districts, and industrial districts.

(B) This new zoning map shall continue to be part of Ord. 180 of the city and shall continue to be on file at the City Finance Office in the City Hall.

(Ord. 335, passed 12-4-1989) (Ord. 477, passed 2-1-2013)

APPLICATION OF DISTRICT REGULATIONS

§ 152.035 MINIMUM REGULATIONS.

The regulations set forth by this chapter within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land and particularly, except as hereinafter provided.

(Prior Code, § 14-6-6.0101) (Ord. 477, passed 2-1-2013)

§ 152.036 ZONING AFFECTS EVERY BUILDING AND USE.

No building, structure, or land shall hereinafter be used or occupied; and no building or structure or part thereof shall hereinafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.

(Prior Code, § 14-6-6.0102) (Ord. 477, passed 2-1-2013)

§ 152.037 PERFORMANCE STANDARDS.

No building or other structure shall hereinafter be erected or altered:

(A) To exceed the height or bulk;

(B) To accommodate or house a greater number of families;

(C) To occupy a greater percentage of lot area; and/or

(D) To have narrower or smaller rear yards, front yards, side yards, or other open spaces, than herein required, or in other manner contrary to the provisions of this chapter.

(Prior Code, § 14-6-6.0103) (Ord. 477, passed 2-1-2013)

§ 152.038 OPEN SPACE OF OFF-STREET PARKING OR LOADING SPACE.

No part of a yard or other open space shall be considered off-street parking or loading space.

(Prior Code, § 14-6-6.0104) (Ord. 477, passed 2-1-2013)

§ 152.039 YARD, LOT, SIDEWALK, AND BOULEVARD REDUCTION PROHIBITED.

(A) No yard, lot, sidewalk, or boulevard existing at the time of passage of this chapter shall be reduced in dimension or areas below the minimum requirements set forth herein.

(B) Yards, lots, sidewalks, or boulevards created after the effective date of this chapter shall meet at least the minimum requirements established by this chapter.

(Prior Code, § 14-6-6.0105) (Ord. 477, passed 2-1-2013)

§ 152.040 UNCLASSIFIED OR UNSPECIFIED USES.

Unclassified or unspecified uses may be permitted by special exception after the City Planning Commission has made a review and determination that such uses are similar in character to the principal uses permitted in the district.

(Prior Code, § 14-6-6.0106) (Ord. 477, passed 2-1-2013)

ESTABLISHMENT OF DISTRICTS

§ 152.055 CLASSES OF DISTRICTS.

(A) For the purpose of this chapter, the city is hereby divided into classes of districts which shall be designated as follows:

- (1) Residential district;
- (2) Business district;
- (3) Industrial district; and
- (4) Mobile home park.

(B) The boundaries of said districts shall be as shown upon the zoning map. The said map and all the notations, references, and other things shown thereon shall be as much a part of this chapter as if the matters and things shown by said map were fully described herein.

(C) Where a district boundary line divides a lot, the regulations as to the use in the less restricted district shall extend over the portion of the lot in the more restricted district, a distance of not more than 50 feet beyond the district boundary line.

(Prior Code, § 14-7-7.0101) (Ord. 477, passed 2-1-2013)

RESIDENTIAL DISTRICT

§ 152.070 INTENT.

The intent of residential district is to provide for residential uses of varying types and other compatible uses in a pleasant and stable environment.

(Prior Code, § 14-8-8.0101) (Ord. 477, passed 2-1-2013)

§ 152.071 PERMITTED PRINCIPAL USES AND STRUCTURES.

- (A) Single-family and two-family dwellings;
- (B) Multiple-family dwellings shall be limited to three stories in height when located in residential districts, and shall be used for residential purposes only;
- (C) Manufactured homes at least 24 feet wide, placed on a permanent foundation for single-family use;
- (D) Churches, synagogues, and temples, convents;
- (E) Nursery, primary, intermediate, and secondary schools, day care, libraries, and museums;
- (F) Public recreational and park facilities, golf courses and country clubs, and community buildings owned by the municipality;
- (G) Non-commercial horticultural uses;
- (H) Convalescent, nursing, and rest homes, hospitals, and clinics;
- (I) Mortuary and funeral homes;
- (J) Medical and other health facilities;
- (K) Governmental services; and
- (L) Utility substations, public works, and public utility facilities including, but not limited to, transformer stations, pumping stations, water towers, radio or television transmitter stations, and telephone exchanges.

(Prior Code, § 14-8-8.0102) (Ord. 477, passed 2-1-2013)

§ 152.072 PERMITTED ACCESSORY USES AND STRUCTURES.

- (A) Home occupations and professional offices; and
- (B) (1) Accessory uses and structures normally appurtenant to the permitted uses and structures when established within space limits of this district.
 - (2) Accessory buildings, including one private garage when located not less than 25 feet from the front lot line and not less than five feet from any side lot line, unless designed and constructed as a part of the main building.
 - (3) In case of a garage on a corner lot, the same shall be set at least ten feet back of the building line on the long side of the lot.
 - (4) Accessory use on the same lot with and customary incidental to any of the above permitted uses. This shall be understood to include the professional office or studio of a doctor, dentist, masseur, teacher, artist, architect, musician,

lawyer, magistrate, or practitioner of a similar character, or rooms used for home occupations including dressmaking, millinery, laundry, or similar handicrafts; provided that the office, studio, or occupational room is located in a dwelling in which the said practitioner resides, or in a building accessory thereto; and, provided that no goods are publicly displayed on the premises and no sign or advertisement is shown other than a size not larger than one square foot in area bearing only the name and occupation, in words only of the practitioner.

(Prior Code, § 14-8-8.0103) (Ord. 477, passed 2-1-2013)

§ 152.073 MINIMUM LOT REQUIREMENTS.

(A) (1) The minimum lot areas shall be 7,000 square feet for single-and multi-family dwellings. The minimum lot width shall be 50 feet.

(2) All land annexed to the city shall be placed in the residential district, and remain there until such time as it is re-zoned by the affirmative action of the City Council. In any new additions to the city, no residential lots shall be platted with a width of less than 100 feet. There shall be a rear yard and two side yards provided for all buildings in the residential district.

(3) No rear yard shall be less than 25% of the lot length; and no side yard shall be less than five feet from the outermost edge of the structure.

(B) There shall be a front yard the depth of which shall not be less than the mean average setback line of all buildings in the same block fronting on the same street; provided, that no building shall be erected less than 25 feet from the front property line.

(C) In case of a corner lot, a front yard shall be required on each street on which the lot abuts, provided, that in the case of a corner lot with a width of less than 60 feet, the depth of the front yard on the long side of the lot may be decreased when authorized as a special exception by the City Council in accordance with the Board of Adjustment.

(Prior Code, § 14-8-8.0104) (Ord. 477, passed 2-1-2013)

§ 152.074 SIDEWALK LOCATION.

If sidewalks are installed, they shall be a minimum width of five feet located ten feet from the curb line. The rest of the boulevard area shall be landscaped.

(Prior Code, § 14-8-8.0105) (Ord. 477, passed 2-1-2013)

§ 152.075 SIGNS.

Signs shall not exceed 12 square feet in area, pertaining to the lease, hire, or sale of the building or premises.

(Prior Code, § 14-8-8.0106) (Ord. 477, passed 2-1-2013)

§ 152.076 MANUFACTURED HOME REGULATIONS.

Manufactured homes are a permitted use in a residential district and may be permitted by special exception in other districts provided that they must:

(A) Be placed on a permanent foundation approved by the governing body of the city. Permanent foundation to be constructed of properly cemented concrete block or poured cement footings of no less than 18 inches wide and drilled down a minimum of six feet below ground level. A plastic liner or vapor barrier shall be in place before home is placed on site;

(B) A permanent perimeter enclosure around the foundation is required and must be capable of supporting the structure. It can be made of wood, brick, cement block, poured cement, or other suitable material. Plywood fixed to wood for appearance only is not acceptable;

(C) Have had the towing hitch and running gear, which includes tongues, axles, brakes, wheels, lights, and other parts of the chassis that operate only during transportation, removed;

(D) Have a pitched roof with not less than two and one-half feet of rise for each 12 feet of horizontal run with any roofing material used that is generally accepted for housing built on site; and

(E) Having exterior siding constructed from any materials that are generally accepted for housing built on site if applied in such a manner as to be similar in appearance, provided, however, that reflection from such exterior shall not be greater than from siding coated with clean, white, gloss, exterior enamel.

(Prior Code, § 14-8-8.0107) (Ord. 477, passed 2-1-2013)

BUSINESS DISTRICT

§ 152.090 INTENT.

The intent of the business district is to provide a commercial area for those establishments serving the general shopping needs of the trade area and, in particular, those establishments customarily oriented to the pedestrian shopper. The grouping of uses is intended to strengthen the central business area as the urban center of trade, service, governmental, and cultural activities and to provide neighborhood commercial convenience areas.

(Prior Code, § 14-9-9.0101) (Ord. 477, passed 2-1-2013)

§ 152.091 PERMITTED PRINCIPAL USES AND STRUCTURES.

The following principal uses and structures shall be permitted in the business district:

- (A) All uses permitted in a residential district;
- (B) All retail sales and services;
- (C) Clubs, lodges, and fraternal organizations;
- (D) Hotels and apartment buildings;
- (E) Office, bank, and financial institution;
- (F) Place of amusement;
- (G) Restaurant, bakery, pastry, candy, or ice cream shop;
- (H) Public garage, sales, services and repair shop, gas station, and retail lumber yards;
- (I) Carpenter, cabinet making, furniture, and upholstering shop, electrical shop, metal working, plumbing, and paint store;
- (J) Newspaper or job printing;
- (K) Funeral service; and
- (L) Any use of the same general character as any of the uses hereinbefore specifically permitted, when authorized as a special exception by the City Council in accordance with the Board of Adjustment.

(Prior Code, § 14-9-9.0102) (Ord. 477, passed 2-1-2013)

§ 152.092 PERMITTED ACCESSORY USES AND STRUCTURES.

Those accessory uses and structures normally appurtenant to the permitted uses and structures when established within the space limits of this district.

(Prior Code, § 14-9-9.0103) (Ord. 477, passed 2-1-2013)

§ 152.093 SPECIAL EXCEPTIONS.

After the provisions of this chapter relating to special exceptions have been fulfilled, the City Council may permit as special exceptions in the business district:

- (A) Grain elevators;
- (B) Other trade and service uses which are similar to the permitted principal uses and which are in harmony with the intent of this district;
- (C) Structures containing both commercial and residential uses;
- (D) Wholesale trade; and
- (E) Multi- and single-family dwellings.

(Prior Code, § 14-9-9.0104) (Ord. 477, passed 2-1-2013)

§ 152.094 MINIMUM LOT REQUIREMENTS.

The minimum lot width shall be 25 feet.

(Prior Code, § 14-9-9.0105) (Ord. 477, passed 2-1-2013)

§ 152.095 MINIMUM YARD REQUIREMENTS.

All buildings located on lots adjacent to a residential district shall be located so as to conform on the adjacent side with the side and rear yard requirements for the adjacent residential district.

(Prior Code, § 14-9-9.0106) (Ord. 477, passed 2-1-2013)

§ 152.096 SIDEWALK LOCATION.

If sidewalks are installed, they shall be a minimum width of eight feet located from the curblines.

(Prior Code, § 14-9-9.0107) (Ord. 477, passed 2-1-2013)

INDUSTRIAL DISTRICT

§ 152.110 INTENT.

(A) The intent of the industrial district is to provide space for certain types of industrial and/or manufacturing and/or warehousing or storage operations which are compatible to adjoining districts. Such uses generally require open storage of materials or goods either before, during, or after the manufacturing process but are of a low noise or nuisance level. Land designated for this district should be located in relation to the thoroughfare network of the community as well as rail and air if required and designated as to not disrupt normal traffic flow. Planned industrial parks are encouraged in this district. In the industrial districts, the following regulation shall apply.

(B) A building may be erected, altered, or used, and a lot or premises may be used for any of the following purposes and for no other.

(Prior Code, § 14-10-10.0101) (Ord. 477, passed 2-1-2013)

§ 152.111 PERMITTED PRINCIPAL USES AND STRUCTURES.

(A) The following principal uses and structures shall be permitted in the industrial district:

- (1) Any of the uses permitted in the residential or business districts;
- (2) Grain elevators, feed mills, and storage warehouses;
- (3) Bottling works;
- (4) Contractor plant equipment and accessory storage yard;
- (5) Building material storage yard;
- (6) Warehouses, general storage (not for combustible materials);
- (7) Wholesale warehouses;
- (8) Monument works; and
- (9) All manner of manufacturing industries which are not objectionable from standpoint of sight, smell, or noise.

(B) The following uses, but only upon the securing of a special use permit:

- (1) Funeral homes;
- (2) Drive-in businesses where people are served in automobiles;
- (3) List of additional uses:
- (4) Livestock barns, stockyards, or corrals;
- (5) Bulk gas and oil storage;
- (6) Manufactured gas storage;
- (7) Slaughtering house, poultry killing and dressing;
- (8) Explosives of any kind - storage;
- (9) Junkyard storage;
- (10) Canning factories;
- (11) Brewery and malt houses; and
- (12) All other lawful uses not prohibited by law or ordinance.

(Prior Code, § 14-10-10.0102) (Ord. 477, passed 2-1-2013)

§ 152.112 AREA REGULATIONS.

In the industrial district, neither rear yards or side yards shall be required except as follows.

(A) Buildings erected for dwelling purposes exclusively shall comply with the rear yard and side yard regulations for the residential district.

(B) Buildings erected for mixed use, namely, for both dwelling and business purposes, shall comply with the rear yard and side yard regulations prescribed for such buildings in the business district.

(C) No building or use which is excluded from the business district shall be permitted within ten feet of any residential district lot.

(D) Every rear yard and every side yard that is provided, where not required by these regulations, shall be not less than three feet in width.

(Prior Code, § 14-10-10.0103) (Ord. 477, passed 2-1-2013)

§ 152.113 PERMITTED PRINCIPAL USES AND STRUCTURES.

There are no permitted principal uses or structures.

(Prior Code, § 14-10-10.0104) (Ord. 477, passed 2-1-2013)

§ 152.114 SPECIAL EXCEPTIONS.

The City Planning and Zoning Commission may permit as a special use in general industrial districts any use which is consistent with the intent of this district. The performance standards found in § 152.116 may be used as guidelines in determining conditions of the use.

(Prior Code, § 14-10-10.0105) (Ord. 477, passed 2-1-2013)

§ 152.115 MINIMUM YARD REQUIREMENTS.

Each side yard setback shall not be less than 20 feet, provided, that on lots adjacent to a residential lot, all buildings shall be located so as to provide a minimum side and rear yard to 25 feet along that portion of the lot adjacent to the residential lot.

(Prior Code, § 14-10-10.0106) (Ord. 477, passed 2-1-2013)

§ 152.116 INDUSTRIAL PERFORMANCE STANDARDS.

(A) *Physical appearance.* All operations shall be carried on within an enclosed building except that new material or equipment in operable condition may be stored in the open. Normal daily wastes of an inorganic nature may be stored in containers not in a building when such containers are not readily visible from the street.

(B) *Fire hazard.* No operation shall involve the use of highly flammable gases, solids, acids, liquids, grinding processes, or other inherent fire hazard. This provision shall not be construed to prohibit the use of normal heating fuels, motor fuels, and welding gases when handled in accordance with other city ordinances.

(C) *Noise.* No operation shall be carried on which involves noise in excess of the normal traffic noise of the adjacent street at the time of the high traffic hour. Noise shall be measured by observation with the natural senses, a suitable instrument may be used and measurement may include breakdowns into a reasonable number of frequency ranges. All noises shall be muffled so as not to be objectionable due to intermittence, beat frequency, or shrillness.

(D) *Sewage and liquid waste.* No operation shall be carried on which involves the discharge into a sewer, watercourse, or the ground of liquid wastes of any radioactive nature, or liquid wastes of a chemical nature which are detrimental to normal sewage plant operation or corrosive and damaging to sewer pipes and installation.

(E) *Air contaminants.* Due to the fact that the possibilities of identifying all air contaminants cannot reasonably be covered in this section, there shall be applied the general rule that there shall be no discharge unless such discharge occurs naturally, without human intervention, from any source whatsoever such quantities of air contaminants or other material as may cause injury, detriment, nuisance, or annoyance to any person, or to the public in general or as to endanger the comfort, repose, health, or safety of residents or to cause or have a natural tendency to cause injury or damage to business, vegetation, or property.

(F) *Gases.* The gases sulfur dioxide and hydrogen sulfide shall not exceed five parts per million. All nitrous fumes shall not exceed one part per million. Measurements shall be taken at the property line of the particular establishment involved.

(G) *Vibration.* All machines including punch presses and stamping machines shall be mounted so as to minimize vibration and in no case shall such vibration exceed a displacement of three thousandths of an inch measured at the property line.

(H) *Glare and heat.* All glare, such as welding arcs and open furnaces, shall be shielded so that they shall not be visible from the property lines. No heat from furnaces or processing equipment shall be sensed at the property line to the extent of raising the temperature of air or materials more than 5°F.

(Prior Code, § 14-10-10.0107) (Ord. 477, passed 2-1-2013)

PLANNED MOBILE HOME DISTRICT

§ 152.130 INTENT.

This district is created to preserve and enhance property values in the city by providing designated, distinctive areas of not less than two acres having a minimum of 300 feet in width in which mobile homes may be situated for residential dwelling purposes. It is the intent that this district be a desirable, prominent area providing adequate open space and essentially the same considerations given to citizens of other residential districts.

(Prior Code, § 14-11-11.0101) (Ord. 477, passed 2-1-2013)

§ 152.131 PERMITTED PRINCIPAL USES AND STRUCTURES.

The following principal uses and structures shall be permitted in the planned mobile home park district:

(A) Mobile home dwellings;

(B) Laundromats, including facilities for coin-operated dry cleaning machines; and

(C) Parks and playgrounds.

(Prior Code, § 14-11-11.0102) (Ord. 477, passed 2-1-2013)

§ 152.132 PERMITTED ACCESSORY USES AND STRUCTURES.

Only those accessory uses and structures customarily incidental to principal uses and structures.

(Prior Code, § 14-11-11.0103) (Ord. 477, passed 2-1-2013)

§ 152.133 MINIMUM LOT REQUIREMENTS.

The minimum lot area for individual mobile homes shall be 7,000 square feet. The minimum lot width shall be 50 feet. The overall density of any mobile home park shall not exceed six units per gross acre.

(Prior Code, § 14-11-11.0104) (Ord. 477, passed 2-1-2013)

§ 152.134 MINIMUM YARD REQUIREMENTS.

There shall be a front yard of not less than a depth of 25 feet. There shall be a rear yard of not less than a depth of seven feet. Each side yard shall be seven feet as measured from the outermost edge of the structure. On long side abutting a street, the set back distance shall be ten feet. All buildings located on lots adjacent to a residential district shall be located so as to conform on the adjacent side with the side and rear yard requirements for the adjacent residential district.

(Prior Code, § 14-11-11.0105) (Ord. 477, passed 2-1-2013)

§ 152.135 MOBILE HOME PARKS.

A mobile home park may be established by following the rezoning process for the residential mobile home district provided:

(A) A request for a change in zoning district to residential mobile home shall set forth the topography, legal description of the proposed mobile home park property, and a sketch of the proposed mobile home park, showing dimensions, driveways, proposed locations of mobile homes, the location of sanitary conveniences and other buildings and improvements;

(B) Certification of compliance with all ordinances and regulations regarding mobile home park licensing and zoning, health, plumbing, electrical, building, fire prevention, and all other applicable ordinances and regulations shall be a prior requirement; and

(C) Property line, easements, and rights-of-way will also be shown.

(Prior Code, § 14-11-11.0106) (Ord. 477, passed 2-1-2013)

§ 152.136 MOBILE HOME REGULATIONS WITHIN A MOBILE HOME PARK.

(A) *Property standards.* Planned mobile home developments are permitted as a matter of right in districts zoned as planned mobile home districts; however, to implement the statement of intent for this district, the following standards shall be met by any applicant.

(1) The proposed property shall be located so that it shall not be necessary for excessive traffic movement from the park to pass through an existing single-family residential area or area suitable for future single-family residential development.

(2) The property is not within an area used nor planned for industrial development, nor will be occupants of the proposed park be in any way adversely affected by nearby existing or planned industrial uses.

(B) *Access and street requirements.*

(1) All mobile home spaces must be served from internal private streets within the mobile home park, and there shall be no direct access from a mobile home space to a public street or alley. These streets must be at least graveled.

(2) A minimum of two off-street parking spaces shall be provided for each mobile home space; guest parking in the ratio of one parking space per five mobile home spaces shall be interspersed throughout the mobile home park.

(3) No internal private street access to public street shall be closer than 100 feet to any public street intersection.

(4) All streets shall be lighted in accordance to the standards of the city.

(5) Stop signs shall be placed at all public street intersections. Yield signs placed appropriately on internal private streets.

(6) Entrance to mobile home parks shall have direct connections to a public road and shall be designed to allow free movement of traffic on such adjacent public roads.

(7) Streets should be of adequate widths to accommodate the contemplated parking and traffic load in accordance with the type of street with ten feet minimum moving lanes for collector streets, nine feet minimum moving lanes for minor streets, and seven feet minimum lanes for parallel parking.

(8) Other requirements.

(a) Applicants shall comply with appropriate requirements of the subdivision regulations.

(b) Additional development requirements may be prescribed as conditions when such requirements are determined to be necessary to ensure the protection of the character of the neighboring properties, the compatibility of land uses, and the health and safety of mobile home park occupants.

(Prior Code, § 14-11-11.0107) (Ord. 477, passed 2-1-2013)

§ 152.137 SIDEWALK LOCATION.

If sidewalks are installed, they shall be a minimum width of five feet located ten feet from the curb line. The rest of the boulevard area shall be landscaped.

(Prior Code, § 14-11-11.0108) (Ord. 477, passed 2-1-2013)

§ 152.138 MOBILE HOME REGULATIONS.

All inhabited mobile homes in allowed districts must comply with the following mobile home regulations.

(A) *Skirting.* All mobile homes shall have adequate skirting from the bottom of coach to the ground.

(B) *Mobile home tie downs.* Each mobile home up to 14 feet in width shall be provided with over-the-top tie downs.

(C) *Ground anchors.* Mobile home ground anchors shall be provided for each mobile home. Anchors shall be capable of withstanding 5,700 pounds of pull and sunk to a depth of five feet.

(D) Each mobile home or trailer shall have water and sewer connections and shall comply in all aspects to all appropriate state, county, and city sanitation, health, and safety regulations and codes.

(E) Each mobile home park shall be in charge of a person or persons of legal age who shall maintain the mobile home park in a clean, orderly, and sanitary condition at all times. Lot number and trailer identification shall be placed on each lot, readily visible to visitors and the general public. Street surfaces must be kept in a condition whereas standing water will not create insect breeding areas. Each mobile home court or park must maintain a register of all occupants.

(Prior Code, § 14-11-11.0109) (Ord. 477, passed 2-1-2013)

SUPPLEMENTARY DISTRICT REGULATIONS

§ 152.150 INTENT.

Nothing shall be erected, placed, planted, or allowed to grow in such a manner as materially to impede vision between a height of two and one-half feet and ten feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining points along said street lines 50 feet from the point of the intersection.

(Prior Code, § 14-12-12.0101) (Ord. 477, passed 2-1-2013)

§ 152.151 ERECTION OF MORE THAN ONE PRINCIPAL STRUCTURE ON A LOT.

In any district, more than one structure housing a permitted or permissible principal use may be erected on a single lot, provided, that yard and other requirements of this chapter shall be met for each structure as though it were on an individual lot.

(Prior Code, § 14-12-12.0102) (Ord. 477, passed 2-1-2013)

§ 152.152 BUILDING IN STREET.

No person shall erect or maintain any building in such a position that the same shall stand in whole or in part upon any public street, road, alley, or sidewalk in said city, or so constructed that any part of the building proper shall project into or over such street, road, alley, or sidewalk; provided that jutting windows, cornices, and other projections from the buildings above the first story may extend over an adjoining street, road, alley, or sidewalk, not exceeding 18 inches; and no person shall construct any step, area, or other appurtenance to any building extending over or upon the sidewalk nor shall any person erect in any public street or road any flight of stairs or step leading to any floor of any buildings.

(Prior Code, § 14-12-12.0103) (Ord. 477, passed 2-1-2013) Penalty, see §152.999

§ 152.153 ON-SITE EXTERIOR SIGN REQUIREMENTS.

On-site, exterior signs will be allowed in any zones as long as they are not in a deteriorated condition. Signs in this condition must be restored or removed upon notification by the City Council to this effect. All such signs along federal primary and secondary highways must adhere to all federal and state standards, in addition to the requirements set forth in this chapter.

(Prior Code, § 14-12-12.0104) (Ord. 477, passed 2-1-2013)

§ 152.154 OFF-SITE SIGN REQUIREMENTS.

No off-site signs will be permitted along state and federal highways except in business districts and industrial districts. State law will prevail along all federal aid primary and interstate roads. No other off-site signs hereafter may be erected or maintained in the remaining districts except as erected by an official unit of government for the direction or control of traffic, and information to the general public. All off-site signs within the boundaries of this zoning chapter must have a setback of no less than 20 feet from the property line.

(Prior Code, § 14-12-12.0105) (Ord. 477, passed 2-1-2013)

§ 152.155 SPACING OF SIGNS.

Signs may not be located in such a manner as to obscure or otherwise physically interfere with the effectiveness of an official traffic sign, signal, or device; obstruct or physically interfere with the driver's view of approaching, merging, or intersecting traffic.

(Prior Code, § 14-12-12.0106) (Ord. 477, passed 2-1-2013)

§ 152.156 SETBACK REQUIREMENTS.

(A) All primary and accessory structures and storage sheds shall adhere to front, side, and rear setback requirements of their particular district.

(B) All fences shall be placed no closer than two feet from the property line unless a written agreement with the abutting landowner is obtained.

(Prior Code, § 14-12-12.0107) (Ord. 477, passed 2-1-2013)

NONCONFORMING LOTS, USES OF LAND, STRUCTURES, USES OF STRUCTURES AND PREMISES, AND CHARACTERISTICS OF USES

§ 152.170 INTENT.

(A) Within the districts established by this chapter or amendments that may later be adopted, there exist:

- (1) Lots;
- (2) Structures;
- (3) Uses of land and structures; and

(4) Characteristics of use; which were lawful before this chapter was passed or amended but which would be prohibited, regulated, or restricted under the terms of this chapter and future amendments. It is the intent of this chapter to permit these nonconformities to continue until they are removed, but not to encourage their survival. It is further the intent of this chapter that non-conformities shall not be enlarged upon, expanded, or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

(B) Nonconforming uses are declared by these regulations to be incompatible with permitted uses in the districts involved. A nonconforming use of a structure or a nonconforming use of land and structure in combination shall not be extended or enlarged after passage of this chapter by attachment on a building or premises intended to be seen from off the premises or by the addition of other uses of a nature which would be prohibited generally in the district involved.

(C) To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of this adoption or amendment of this chapter and upon which actual building construction has been carried on diligently. **ACTUAL CONSTRUCTION** is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

(Prior Code, § 14-13-13.0101) (Ord. 477, passed 2-1-2013)

§ 152.171 NONCONFORMING LOTS OF RECORD.

(A) In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this chapter, notwithstanding limitations imposed by other provisions of this chapter.

(B) Such lot must be in separate ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than those applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the City Planning Commission.

(C) In any district, if two or more lots or combination of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this chapter and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the

purpose of this chapter; and no portion of said parcel shall be used or sold in a manner which diminished compliance with lot width and area requirements established by this chapter; nor shall any division of any parcel be made which creates a lot with width or area below requirements stated in this chapter.

(Prior Code, § 14-13-13.0102) (Ord. 477, passed 2-1-2013)

§ 152.172 NONCONFORMING USES OF LAND (OR LAND WITH MINOR STRUCTURES ONLY).

Where at the time of passage of this chapter, lawful use of land exists which would not be permitted by the regulations imposed by this chapter, the use may be continued so long as it remains otherwise lawful, provided:

(A) No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this chapter;

(B) If any such nonconforming use of land ceases for any reason for a period of more than two years, any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located; and

(C) No additional structure not conforming to the requirements of this chapter shall be erected in connection with such nonconforming use of land.

(Prior Code, § 14-13-13.0103) (Ord. 477, passed 2-1-2013)

§ 152.173 NONCONFORMING STRUCTURES.

Where a lawful structure exists at the effective date of adoption or amendment of this chapter that could not be built under the terms of this chapter by reason of restrictions on areas, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions.

(A) No such nonconforming structure may be enlarged or altered in any way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.

(B) Should such nonconforming structures or nonconforming portion of structure be destroyed by any means to an extent of more than 50% of its reasonable fair market value/replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.

(C) Should such structure be moved for any reason for any distance whatsoever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

(Prior Code, § 14-13-13.0104) (Ord. 477, passed 2-1-2013)

§ 152.174 REPAIRS AND MAINTENANCE.

(A) On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs or on repair or replacement of nonbearing walls, fixtures, wiring, or plumbing to an extent not exceeding 10% of the current reasonable fair market value/replacement cost of the nonconforming structure or nonconforming portion of the structure as the case may be, provided that the cubic content existing when it became nonconforming shall not be increased.

(B) If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located.

(C) Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by an official charged with protecting the public safety, upon order of such official.

(Prior Code, § 14-13-13.0105) (Ord. 477, passed 2-1-2013)

§ 152.175 USES UNDER SPECIAL EXCEPTIONS PROVISION ACT.

Any use which is permitted as a special exception use in a district under the terms of this chapter (other than a change through the City Planning Commission action from a nonconforming use to another use not generally permitted in the district) shall not be deemed a nonconforming use in such district but shall without further action be considered a conforming use at the date of adoption of this chapter.

(Prior Code, § 14-13-13.0106) (Ord. 477, passed 2-1-2013)

ADMINISTRATIVE PROCEDURE AND ENFORCEMENT

§ 152.190 ADOPTION OF INTERNATIONAL BUILDING CODE.

There is hereby adopted by the city for the purpose of establishing rules and regulations for the construction, alteration, removal, demolition, equipment, use and occupancy, location, and maintenance of buildings and structures, including permits and penalties, that certain building code known as the International Building Code, 2012 edition thereof and the whole thereof, save and except such portions as are hereinafter deleted, modified, or amended, of which a copy is on file in

the office of the City Finance Officer, and the same is hereby adopted and incorporated as fully as if set out at length herein, and from the date on which this chapter shall take effect, the provisions thereof shall be controlling in the construction of all buildings and other structures within the corporate limits of the city.

(Prior Code, § 14-14-14.0101) (Ord. 477, passed 2-1-2013)

§ 152.191 ADMINISTRATION AND ENFORCEMENT.

(A) Administration known as the zoning body shall be designated by the City Council and shall administer and enforce this chapter. The zoning body may be provided with the assistance of such other persons as the City Council may direct.

(B) If the zoning body shall find that any of the provisions of this chapter are being violated, it shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. The zoning body may order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings, structures, additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this chapter to ensure compliance with or to prevent violation of its provisions.

(Prior Code, § 14-14-14.0102) (Ord. 477, passed 2-1-2013)

§ 152.192 BUILDING PERMITS REQUIRED.

(A) No building, except a temporary structure, shall be erected, partially erected, moved, added to, or structurally altered without a permit therefor issued by the city. No builder, hired to complete the construction, with or without pay, including any firm, corporation, partnership, or individual, shall commence work upon the construction until a building permit is first obtained by the owner or the builder. No building permit shall be issued by the city except in conformity with the provisions of this chapter, unless by a written order from the City Planning and Zoning Commission in the form of an administrative review special exception, or variance as provided by this chapter.

(B) The issuance of a building permit shall, in no case, be construed as waiving any provisions of this chapter.

(Prior Code, § 14-14-14.0103) (Ord. 477, passed 2-1-2013)

§ 152.193 APPLICATION FOR BUILDING PERMIT.

(A) All applications for building permits shall show the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; and the location and dimensions of the proposed building or alteration. Anyone desiring to move any building into, along, or across any public street, alley, or highway must describe the lot on which it is to be moved, the street along which it is proposed to move such building, the time when such moving will take place, and the size of the building.

(B) The application shall include such other information as lawfully may be required by the city, including existing or proposed uses of the building and land; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other matter as may be necessary to determine conformance with, and provide for the enforcement of, this chapter.

(C) The application for a building permit shall be required to have accompanying photographs of the structure to be moved; and an inspection by the zoning body to determine structure suitability and building code compliance may be required. This inspection shall be at the applicant's expense.

(D) One copy of the application shall be returned to the applicant, one copy will be sent to the county, and the original retained in the city offices after the permit is approved or disapproved and attesting to the same by the applicant's signature. The Finance Office staff shall issue permits and the mayor shall sign permits after approval by the governing body according to the fee schedule as provided by § 152.240. If a building permit is refused, the zoning body shall state the reasons for such refusal in writing.

(E) If the work described in any building permit has not been substantially completed within one year of the date of issuance thereof, said permit shall expire and be cancelled by the zoning body unless the permit is renewed sooner by the zoning body. If the work described in the building permit has not been substantially completed within one year of the date of the first issuance of the permit, the permit shall be cancelled by the City Planning and Zoning Commission unless the applicant is able to show cause to the Planning and Zoning Commission as to why the work has not been completed and why the permit should be renewed. Building permits can be extended for an additional six months by written request of the applicant to the zoning body. Before cancellation of a building permit, notice thereof shall be given to the persons affected, together with notice that further work as described in the cancelled permit shall not proceed unless and until the permit has been renewed.

(Prior Code, § 14-14-14.0104) (Ord. 477, passed 2-1-2013)

§ 152.194 AWNINGS.

It shall be unlawful for any person to set up or maintain any awning or wood, metal, or other hard material over or above any street, alley, or sidewalk or any portion thereof within the limits of the city without first having obtained a permit for doing so; provided the cloth or temporary awnings may be placed at a height not less than seven feet above any sidewalk or 14 feet above any street or alley.

(Prior Code, § 14-14-14.0105) (Ord. 477, passed 2-1-2013) Penalty, see §152.999

§ 152.195 CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATION AND PERMITS.

Building permits issued on the basis of applications approved by the city authorize only the use, arrangement, and construction set forth in such application. Use, arrangement, or construction at variance with that authorized shall be deemed a violation of this chapter and punishable as provided by § 152.999.

(Prior Code, § 14-14-14.0106)

§ 152.196 ESTIMATING CONSTRUCTION COSTS ON ALL BUILDING/ZONING PERMITS APPLICATIONS.

All building/zoning permits shall be obtained by application of the owner or builder and shall give an estimated cost of the construction or repairs and initial fees shall be based on such estimate; provided, that if at the completion of said construction or repair the estimated cost as given in the application appears inadequate to the city zoning body, it may demand bills or receipts to substantiate such value and additional fees may be assessed accordingly. It is the owner's responsibility to obtain a permit prior to construction on his or her property, owned or leased.

(Prior Code, § 14-14-14.0107) (Ord. 477, passed 2-1-2013)

§ 152.197 ELECTRICAL OR COMMUNICATIONS TOWERS AND DISHES, PERMIT REQUIRED.

(A) It shall be unlawful for any person, corporation, or business to erect, construct, hang, or maintain any electrical generation or communication tower greater than ten feet in height or satellite dish greater than three feet in diameter without first obtaining a permit.

(B) Any person desiring a permit shall make written application therefor to the City Planning and Zoning Commission, which application shall set forth and fully describe the kind, character, and size of such tower or dish, with the location of such structure and said written application shall further contain an agreement and understanding that the person signing the same will indemnify and save harmless the city from any and all costs, expenses, and damages that may be caused by erecting, hanging, or maintaining such tower or dish and that the person signing said application will pay or cause to be paid, any judgment for costs and damages that may be recovered against the city arising out of the injuries to persons or property occasioned by said tower or dish.

(C) Upon filing of said written application with the Finance Officer, the City Planning and Zoning Commission may, if it deems such tower or dish safe and deems the applicant financially able to meet his or her said obligation, grant said permit and order the Finance Officer to issue a permit therefor in writing upon the payment of a fee therefor; said permit shall specify the manner in which said tower or dish shall be placed and attached to its location and its size, and character and liability insurance coverages.

(Prior Code, § 14-14-14.0108) (Ord. 477, passed 2-1-2013) Penalty, see §152.999

§ 152.198 SIZE AND PLACEMENT.

Towers and satellite dishes shall comply with minimum front, side, and rear yard requirements for the respective zone in which it is to be placed. Dishes and towers shall be constructed and anchored according to the manufacturer's instructions. Ground towers may have a basic height of up to 35 feet. For every one additional foot in from the side or rear building setback lines, another one foot in height may be added to a maximum height of 60 feet. Roof towers shall not extend more than 20 feet above the point of attachment and dishes attached to the side or roof of a building shall not extend more than 12 feet above the point of attachment.

(Prior Code, § 14-14-14.0109) (Ord. 477, passed 2-1-2013)

§ 152.199 FEE STRUCTURE.

(A) The City Council shall establish the terms, conditions, and fee structures which shall regulate the manner of use of public right of ways, street, alleys, and municipal poles. These terms, conditions, and fee structures shall be kept on file with the Finance Officer of the city.

(B) No person may use public property belonging to the city without a license from the city to do so based on applying and complying with the terms and conditions set and paying a fee required.

(Prior Code, § 14-14-14.0110) (Ord. 477, passed 2-1-2013)

CITY PLANNING AND ZONING COMMISSION

§ 152.210 CREATED.

There is hereby created a Planning and Zoning Commission/Board of Adjustment which shall be referred to as the City Planning Commission.

(Prior Code, § 14-15-15.0101) (Ord. 477, passed 2-1-2013)

Statutory reference:

Related provisions, see SDCL 11-6-2

§ 152.211 PROCEEDINGS OF THE CITY PLANNING AND ZONING COMMISSION.

(A) The City Planning and Zoning Commission shall serve as a Board of Adjustment as provided by state law. The City Planning and Zoning Commission shall adopt rules necessary for the conduct of its affairs and in keeping with the provisions of this chapter. The City Planning and Zoning Commission shall keep record of all proceedings. Meetings shall be held at the call of the Chairperson and at such other times the Planning and Zoning Commission may determine. The Chairperson, or in his or her absence, the acting chair, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.

(B) The City Planning and Zoning Commission shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failure to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be of public record and be immediately filed with the Secretary of the Planning Commission. The Planning Commission shall adopt from time to time, subject to the approval of the City Council, such rules and regulations as it may deem necessary to carry appropriate provisions of this chapter into effect.

(C) In exercising the duties granted to it by this chapter, the City Planning Commission shall by ordinance adopt regulations governing land uses, building or setback lines, and the subdivision or platting of land within the city in accordance with SDCL Chapters 11-4 and 11-6.

(Ord. 477, passed 2-1-2013)

§ 152.212 HEARINGS, APPEALS, AND NOTICES.

(A) Appeals to the City Planning and Zoning Commission may be taken by any person aggrieved or by any officer, department, board, or bureau of the city affected by any decision of the zoning body. Such appeal shall be taken within 15 days after permit publications in the newspaper, by filing with the officer from whom the appeal is taken and with the City Planning and Zoning Commission a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the City Planning and Zoning Commission all the paper constituting the record upon which the action appealed from was taken.

(B) The City Planning and Zoning Commission shall, within 15 days after receipt of the petition, hold a public hearing on the appeal, give public notice prior to, as well as give due notice to the parties in interest, and decide the same. Upon the hearing, any party may appear in person or by agent or by attorney.

(Prior Code, § 14-15-15.0102) (Ord. 477, passed 2-1-2013)

ORDINANCE ADMINISTRATION

§ 152.225 ADMINISTRATIVE REVIEW.

The City Planning and Zoning Commission shall have the power to hear and decide appeals where it is alleged there is error in any order, requirements, decision, or determination made by an administrative official or agency based on or made in the enforcement of any zoning regulation relating to the location or soundness of structures or to interpret any map.

(Prior Code, § 14-16-16.0101) (Ord. 477, passed 2-1-2013)

§ 152.226 SPECIAL EXCEPTIONS; CONDITIONS GOVERNING APPLICATIONS; PROCEDURE.

(A) The City Planning and Zoning Commission shall have power to hear and decide, in accordance with the provisions of this chapter, requests for special exceptions or for decisions upon other special questions upon which the City Planning and Zoning Commission is authorized by this chapter to pass; to decide such questions as are involved in determining whether special exceptions with such conditions and safeguards as are appropriate under this chapter, or to deny special exceptions when not in harmony with the purpose and intent of this chapter.

(B) A special exception shall not be granted by the City Planning and Zoning Commission unless and until:

(1) A written application for a special exception is submitted indicating the section of this chapter under which the special exception is sought and stating the grounds on which it is requested;

(2) Notice shall be given at least 15 days in advance of public hearing. The owner of the property for which special exception is sought or his or her agent and all adjacent property owners shall be notified by mail. Notice of such hearing shall be posted on the property for which special exception is sought, at City Hall, and in one other public place at least 15 days prior to the public hearing;

(3) The public hearing shall be held. Any party may appear in person, or by agent or attorney;

(4) The City Planning and Zoning Commission shall make a finding that it is empowered under the section of this chapter described in the application to grant the special exception, and that the granting of the special exception will not adversely affect the public interest;

(5) Before any special exception shall be issued, the City Planning and Zoning Commission shall make written findings certifying compliance with the specific rules governing individual special exceptions and that satisfactory provision and arrangement has been made concerning the following where applicable:

- (a) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
 - (b) Off-street parking and loading areas where required, with particular attention to the items in division (B)(5)(a) above and economic, noise, glare, or other effects of the special exception on adjoining properties generally in the district;
 - (c) Refuse and service areas, with reference to the items in divisions (B)(5)(a) and (B)(5)(b) above;
 - (d) Utilities, with reference to locations, availability, and compatibility;
 - (e) Screening and buffering with reference to type, dimensions, and character;
 - (f) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;
 - (g) Required yards and other open space; and
 - (h) General compatibility with adjacent properties and other property in the district.
- (6) After the City Planning and Zoning Commission has granted a special exception, the applicant shall have six months to begin use of the special exception or it shall be void without further consideration but after notice to the applicant (Prior Code, § 14-16-16.0102) (Ord. 477, passed 2-1-2013)

§ 152.227 VARIANCES, CONDITIONS GOVERNING APPLICATIONS; PROCEDURES.

- (A) The City Planning and Zoning Commission shall have the power, where, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of this chapter, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any regulation under this chapter would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of such property, to authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardships, as such relief may be granted without substantially impairing the intent and purpose of this chapter.
- (B) No such variance shall be authorized by the Commission unless it finds that the strict application of this chapter would produce undue hardship; such hardship is not shared generally by other properties in the same zoning district and the same vicinity; the authorization of such variance will not be of substantial detriment to adjacent property; and the character of the district will not be changed by the granting of the variance; and the granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, and caprice.
- (C) No variance shall be authorized unless the Commission finds that the conditions or situation of the property concerned or the intended use of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this chapter.
- (D) A variance from the terms of this chapter shall not be granted by the City Planning and Zoning Commission unless and until a written application for a variance is submitted demonstrating that special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district; that literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter; that the special conditions and circumstances do not result from the action of the applicant; that granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings in the same district.
- (E) No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.
- (F) Notice of public hearing shall be given as in §152.226; the public hearing shall be held. Any party may appear in person, or by agent or by attorney; the City Planning and Zoning Commission shall make findings that the requirements of this section have been met by the applicant for a variance; the Commission shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure; the Commission shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
- (G) In granting any variance, the City Planning and Zoning Commission may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards, when made a part of term under which the variance is granted, shall be deemed a violation of this chapter and punishable under § 152.999.
- (H) Under no circumstances shall the City Planning and Zoning Commission grant a variance to allow a use not permissible under the terms of this chapter in the district involved, or any use expressly or by implication prohibited by the terms of this chapter in said district.
- (I) After the City Planning and Zoning Commission has granted any variance, the property owner has one year to begin use of the variance or it shall be void without further consideration but after notice to the applicant.

(Prior Code, § 14-16-16.0103) (Ord. 477, passed 2-1-2013)

§ 152.228 CITY PLANNING AND ZONING COMMISSION HAS POWERS TO ZONING BODY ON APPEALS; REVERSING DECISION OF ZONING BODY.

In exercising the above-mentioned power, the City Planning and Zoning Commission may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from, and may make such order, requirement, decision, or determination appeal as ought to be made, and to that end shall have all the powers of the city zoning body from whom the appeal is taken. The concurring vote of the majority of the membership of the Planning and Zoning Commission shall be necessary to reverse any order, requirement, decision, or determination of any such zoning body, or to decide in favor of the applicant on any matter upon which it is required to pass under the ordinance or to effect any variation in this chapter.

(Prior Code, § 14-16-16.0104) (Ord. 477, passed 2-1-2013)

APPEALS

§ 152.240 DUTIES OF ZONING BODY, CITY PLANNING AND ZONING COMMISSION/BOARD OF ZONING ADJUSTMENT, AND CITY COUNCIL ON MATTERS OF APPEAL.

(A) It is the intent of this chapter that all questions of interpretation and enforcement shall be presented first to the city zoning body. Such questions may be deferred by the zoning body for consideration by the City Planning and Zoning Commission/Board of Adjustment in appeal from the decisions of the zoning body.

(B) (1) Recourse from the decisions of the City Planning and Zoning Commission/Board of Adjustment shall be to the City Council.

(2) The procedure for deciding such questions shall be as stated in this section and chapter. Under this chapter, the City Council shall have the duties:

(a) Of considering and adopting or rejecting proposed amendments or the repeal of this chapter as provided by law; and

(b) Of establishing a schedule of fees and charges. The City Council shall establish a schedule of fees, charges, and expenses and a collection procedure for building permits, certificates of zoning compliance, appeals, and other matters pertaining to this chapter. The schedule of fees shall be posted in the Finance Office and may be altered or amended only by the City Council. Until all application fees, charges, and expenses have been paid in full, no action shall be taken on any application for appeal.

(Prior Code, § 14-17-17.0101) (Ord. 477, passed 2-1-2013)

§ 152.241 APPEAL PROCEDURE.

(A) (1) The provisions set forth in this chapter may, from time to time, be amended, supplemented, changed, modified, or repealed by action of the City Council or when such amendment, supplement, change, modification, or repeal is requested through a petition by 30% of the landowners in the district requesting change. An individual landowner may also petition the Board to change the zoning of all or any part of his or her property.

(2) Upon filing or upon separate request by the City Council, the City Planning and Zoning Commission and the Board shall hold a public hearing not less than 15 days after the notice is published in the official newspaper of the city and/or county and subject to the provisions in SDCL Chapter 11-4.

(3) Such petitioning landowner shall also notify all other abutting landowners by certified mail of the petitioned zoning change at least one week prior to any public hearing held thereon by the City Planning and Zoning Commission.

(B) The City Planning and Zoning Commission shall within 45 days make its recommendation to the City Council. The report of such recommendation shall include approval, disapproval, or other suggestions and the reasons therefor, and a discussion of the effect on such amendment, supplement, change, modification upon adjacent property, and upon the comprehensive plan.

(C) The City Council shall therefore, by duly enacted ordinance, either adopt or reject such amendment, supplement, change, modification, or repeal, and if it is adopted by the City Council, the same shall be published in the official newspaper in the city and/or county and take effect on the twentieth day after its publication.

(Prior Code, § 14-18-18.0101) (Ord. 477, passed 2-1-2013)

§ 152.999 PENALTY.

(A) *Building permit violations.* Each violation shall be punishable by a fine not to exceed \$200, or by imprisonment for a period not to exceed 30 days for each violation, or by both the fine and imprisonment. The city shall, in addition, be entitled to maintain an action for civil injunctive relief, pursuant to SDCL Chapter 21-8.

(Prior Code, § 14-19-19.0101)

(B) *Violation of ordinance.* Each violation of these ordinances shall be punishable by a fine not to exceed \$200, or by

imprisonment for a period not to exceed 30 days for each violation, or by both the fine and imprisonment. The city shall, in addition, be entitled to maintain an action for civil injunctive relief, pursuant to SDCL Chapter 21-8.

(Prior Code, § 14-19-19.0102) (Ord. 477, passed 2-1-2013)

TABLE OF SPECIAL ORDINANCES

Table

- I. **FRANCHISES**
- II. **ZONING**

TABLE I: FRANCHISES

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
416	1-6-2003	Granting a cable franchise
442	8-6-2007	Extension of cable franchise
466	4-4-2011	Granting a natural gas franchise
503	9-5-2017	Amendment to cable franchise

TABLE II: ZONING

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
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PARALLEL REFERENCES

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