

City of Oldham

CODE OF ORDINANCES

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TITLE I: GENERAL PROVISIONS

Chapter

10. GENERAL CODE CONSTRUCTION; GENERAL PENALTY

CHAPTER 10: GENERAL CODE CONSTRUCTION; GENERAL PENALTY

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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 “Oldham 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.

CITY. The City of Oldham, 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. Kingsbury County.
(SDCL § 9-1-1)

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

GOVERNING BODY. The City Council.
(SDCL § 9-1-1)

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

MONTH. A calendar month.

MUNICIPALITY or MUNICIPAL CORPORATION. All cities and towns organized under the laws of this state but shall not include any other political subdivisions.

(SDCL § 9-1-1)

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

(SDCL § 9-19-1)

OWNER. As used in this code relating to local improvements, the grantee in the last deed of conveyance of any lot or parcel of land recorded in the office of the Register of Deeds of the county or counties in which the municipality is located, 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.

STATE. The State of South Dakota.

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.

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

Statutory reference:

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

TITLE III: ADMINISTRATION

Chapter

- 30. GENERAL PROVISIONS**
- 31. FAIR HOUSING BOARD**
- 32. POLICE DEPARTMENT**
- 33. TAX AND FINANCE**
- 34. POLICIES AND PROCEDURES**

CHAPTER 30: GENERAL PROVISIONS

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- 30.02 Districts
- 30.03 Officers
- 30.04 Duties
- 30.05 Salaries
- 30.06 Special meetings
- 30.07 Form of government; meetings; salaries
- 30.08 Registration of warrants

§ 30.01 WARDS OF THE CITY INTO ONE PRECINCT FOR VOTING PURPOSES.

(A) *Consolidating the three wards of the city into one precinct for voting purposes.*

(1) *Purpose.* Because of the number of legal voters in the three contiguous wards of the city did not exceed 350 in the last annual election, and because of the unnecessary expense involved in the administration of the election processes by virtue of the three wards as they now exist, it is hereby determined that it would be in the best interests of the city to consolidate the three contiguous wards into one precinct for voting purposes pursuant to SDCL § 9-13-16.

(2) *Authorization.* It is hereby ordained by the city that Wards 1, 2 and 3, City of Oldham, Kingsbury County, South Dakota, are hereby consolidated into one

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precinct for voting purposes for all municipal, county, state and national elections all pursuant to SDCL § 9-13-16.

(B) *Consolidating Oldham City Ward 2 and Oldham City Ward 3.*

(1) In as much as the number of legal voters in Oldham City Ward 2 and Oldham City Ward 3 in the last annual election did not exceed 350, and pursuant to SDCL § 9-13-16, the City Commission can consolidate such two wards into one precinct for voting purposes.

(2) Oldham City Ward 2 and Ward 3 are hereby consolidated into one precinct for voting purposes.

(Ord. 146, passed - -; Ord. 168, passed - -)

§ 30.02 DISTRICTS.

The city shall be, and hereby is, divided into three districts, which districts shall be bounded as follows.

(A) *First District.* All territory in the city lying north of a line running east and west through the alley in Block 4, 5 and 6, projected of the original city plat of said city, shall be known and styled as the First District of said city.

(B) *Second District.* All that territory lying between a line running east and west through the alley in Blocks 4, 5 and 6, projected, of the original city plat of the city, and Arthur Street projected, shall be known and styled as the Second District of said city.

(C) *Third District.* All that territory lying south of Arthur Street projected shall be known and styled as the Third District of said city.

(Ord. 28, passed 11-10-1914)

§ 30.03 OFFICERS.

In addition to the officers elected that are provided for by law, the City Council shall appoint a City Marshal, and such other peace officers as shall, in its judgment, be necessary or expedient, and may also appoint any other officers that may be necessary or expedient. All such appointed officers shall hold their respective terms of office for a term not extending beyond the first Monday in May next thereafter, or until their successors are appointed and qualified; provided, also, that the City Council or the President thereof may appoint special police officers when deemed necessary.

(Ord. 28, passed 11-10-1914)

§ 30.04 DUTIES.

It shall be the duty of the City Marshal to see that all the ordinances of the city are enforced. He or she shall report to the City Council any violation of any of the city ordinances, and everything occurring within or without the limits of the city, which, in his or her opinion, is detrimental to the health, safety or good order of the city. He or she

shall, at all times, be subject to the order of the City Council, and perform such additional duties as the Council may at times by ordinance or resolution provide. (Ord. 28, passed 11-10-1914)

§ 30.05 SALARIES.

The salary of all city officers, both elective and appointive, shall be in such amount as the City Council may by resolution, by-law, or ordinance provide. (Ord. 28, passed 11-10-1914)

§ 30.06 SPECIAL MEETINGS.

A special meeting of the City Council may be called by the City Clerk, upon request made by any of the members of the City Council. When the Clerk has been requested to call such meeting, it shall be his or her duty to cause notice in writing to be given to each of the members of the City Council in the city, at the time, of the place of such meeting, and the subject for which it is called; and no other business shall be transacted at such meeting than that for which it is called. Such notice must be given to each member of the City Council at least five hours before the time for such meeting, unless an emergency exists. (Ord. 28, passed 11-10-1914)

§ 30.07 FORM OF GOVERNMENT; MEETINGS; SALARIES.

The form of government for the city is the City Council form. The regular meetings of the City Council shall be held monthly at time and date as set by the City Council. The salaries of the Mayor and Alderman of the city shall be as set by ordinance from time to time. The administrative and bookkeeping functions of the city shall be vested in the Office of the City Finance Officer. (Ord. 28, passed 11-10-1914)

§ 30.08 REGISTRATION OF WARRANTS.

(A) All warrants upon the City Finance Officer or that have been issued and have remained unpaid or that may be hereafter issued shall be paid in order of their presentation.

(B) The City Finance Officer shall keep a warrant register, in which register shall be show, in columns arranged for that purpose, the number, date and amount of each warrant presented, the name of the person to whom the warrant was issued, the name of the person presenting the same, the date payment is made, and the amount of interest and the total amount paid thereon.

(C) It shall be the duty of the City Finance Officer, upon the presentation of any city warrant for payment, if there be no funds in the City Treasury to pay the same, to enter said warrant in his or her warrant register and he or she shall endorse thereon "registered for payment" with the date of such registration, and shall sign such endorsement, and it shall thereafter draw interest at the rate of 7% per annum.

(D) It shall be the duty of the City Finance Officer, as soon as funds are received sufficient for the payment of first in order of the warrants on the warrant register, to notify the owner or holder thereof, by notice published in the official paper of the city for two successive weeks, or by mailing, that funds are on hand to pay such warrant or warrants, and that the same will be paid on presentation thereof, and that interest thereon shall cease from and after the date of completion of such publication, or ten days after notice is given to the holder or owner by mail.

(E) If the City Finance Officer shall fail to enter on the warrant register in the order of its presentation, when presented thereof, any warrant as provided in this chapter he or she shall be liable for his or her official bond to each and every person, the person for hire or promotion or a limitation of physical capabilities unrelated to one's ability to acquire, rent and maintain property. **PHYSICAL LIMITATION** includes, but is not limited to, blindness or partial sightedness, deafness or hearing impairment, muteness, partial or total absence of physical member, speech impairment and motor impairment.

(Ord. 28, passed 11-10-1914)

CHAPTER 31: FAIR HOUSING BOARD

Section

31.01	General provisions
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31.03	Investigation by Commission
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31.05	Appeal
31.06	Quorum
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§ 31.01 GENERAL PROVISIONS.

To effectuate the policy of the city set forth, there is created a Fair Housing Board, which may act to disseminate information, to cooperate with groups or persons interested in similar objectives, to conduct public meetings and hearings, to mitigate and conciliate in instances of alleged discrimination, and to initiate and hear complaints alleging discrimination with such investigation and inquiry as may reasonably appear necessary.

(A) The membership of the Board shall be composed of the members of the governing body of which the members' term on the Board shall coincide with their term of public office.

(B) In the hearing of verified complaints, the Board will have the power and authority to subpoena and examine witnesses, to administer oaths, take sworn testimony, and require the production for examination of relevant books or papers and to take such affirmative action as in the judgment of the Board will effectuate its purposes.

(Ord. passed - -)

§ 31.02 COMPLAINTS.

(A) *Procedure for filing complaints.* Any person claiming to be aggrieved by a discriminatory or unfair housing practice may make, sign and file with the Board a verified, written complaint which shall state the name and address of the person or agency alleged to have committed the discriminatory or unfair housing practice of which complained, shall set forth the facts upon which the complaint is based, and shall contain such other information as may be required by the Commission.

(B) *Time for filing complaint.* Any complaint filed under this chapter shall be so filed within six months after the alleged discriminatory or unfair housing practice has occurred.

(Ord. passed - -)

§ 31.03 INVESTIGATION BY COMMISSION.

(A) *Conference or conciliation to eliminate unfair practice.* After the filing of a verified complaint, a true copy thereof shall be served by certified mail to the person against whom the complaint is filed. A member of the Fair Housing Board or a duly authorized agent shall then make a prompt investigation thereof and, if such investigating official determines that probable cause exists to support the allegations of the complaint, the investigating official shall immediately endeavor to eliminate such discriminatory or unfair housing practice by conference or conciliation.

(B) *Notice to respondent to answer complaint; time for answer.* In case of failure satisfactorily to settle a complaint by conference or conciliation, or in advance thereof if in the opinion of the investigating official circumstances so warrant, the officials may issue and cause to be served a written notice, together with a copy of such complaint, as the same may have been amended, requiring the person, hereafter referred to as respondent, to answer the charges of such complaint in writing within ten days after the date of such notice or within such extended time as the investigating official may allow.

(C) *Notice to answer complaint after investigating official's report; time for hearing.* When the investigating official is satisfied that further endeavor to settle a complaint by conference or conciliation will be futile, the official shall report the same to the Board. If the Board determines that the circumstances warrant, it shall issue and

cause to be served a written notice requiring the respondent to answer the charges of such complaint at a hearing to be set within a reasonable period of time before the Board, and at a time and place to be specified in such notice.

(D) *Respondent's answer and appearing at hearing.* The respondent may file a written verified answer to the complaint, and may appear at the hearing in person, with or without counsel, and submit testimony.

(Ord. passed - -)

§ 31.04 FINDINGS.

(A) *Finding of discriminatory or unfair practice; affirmative action required.* If, upon taking into consideration all the evidence at a hearing, the Board shall find that the respondent has engaged in or is engaging in, any discriminatory or unfair housing practice as defined above, the Board shall state its findings of fact and recommendations to the parties and take such affirmative action as in the judgment of the Board will effectuate its purpose.

(B) *Finding of no discriminatory or unfair practice; dismissal of complaint.* If, upon taking into consideration all of the evidence at the hearing, the Board finds that the respondent has not engaged in any such discriminatory or unfair housing practice, the Board shall state its findings of fact and shall issue and cause to be served an order on the complainant and the respondent dismissing the complaint.

(Ord. passed - -)

§ 31.05 APPEAL.

All decisions of the Board shall be subject to appeal under the same conditions and in the manner provided under SDCL §§ 1-26-30 through 1-26-37.

(Ord. passed - -)

§ 31.06 QUORUM.

All official actions of the Board shall be concurred in by a quorum of the total membership of the Board.

(Ord. passed - -)

§ 31.07 RULES.

The Board shall establish rules to govern, expedite and effectuate the procedure established by SDCL Chapter 20-13.

(Ord. passed - -)

§ 31.08 MINUTES.

The Board shall keep the minutes of its proceedings, showing the vote of each member or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be filed in the office of the Board and shall be public record.

(Ord. passed - -)

CHAPTER 32: POLICE DEPARTMENT

Section

- 32.01 Agreement
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- 32.03 General law enforcement services defined
- 32.04 Delivery of services
- 32.05 Resources
- 32.06 Liability
- 32.07 Personnel
- 32.08 Law Enforcement Advisory Board
- 32.09 Fees
- 32.10 Non-accessibility hold harmless

§ 32.01 AGREEMENT.

The county and its Sheriff agree to provide general law enforcement services to the city, and the city agrees to engage the county through its Sheriff to provide such service in accordance with and subject to the terms of this agreement. The written terms and provisions of this contract shall supersede all prior verbal statements of any representative of the county and such statements shall not be effective or be construed as entering into, forming a part of, or altering in any manner whatsoever, this contract or the contract documents.

(Ord. passed 9-15-1999)

§ 32.02 LEGAL BASIS.

This agreement is authorized by the provisions of SDCL Chapters 3-1 through 3-24.

(Ord. passed 9-15-1999)

§ 32.03 GENERAL LAW ENFORCEMENT SERVICES DEFINED.

General law enforcement services consist of patrol and investigation and all auxiliary and technical service now produced by the Sheriff's Department in support of patrol and investigation. All references to general law enforcement services contained in this agreement are references only to services that shall be delivered under the terms of this agreement.

(Ord. passed 9-15-1999)

§ 32.04 DELIVERY OF SERVICES.

(A) *Service area.* The Sheriff shall provide general law enforcement services within the corporate limits of the city.

(B) *Enforcement responsibilities.* The Sheriff or deputy shall enforce state statutes, county ordinances, and ordinances of the city that are of the same type and nature as ordinances of the county enforced by the Sheriff. The Sheriff shall not be required to assume any other enforcement duty or function not consistent with those customarily performed by the Sheriff under the Charter of the county and the statutes of this state.

(C) *Quantity of Service.* The Sheriff and deputies shall periodically patrol the city limits and **shall provide services as contracted for annually within the community.**

(D) *How delivered.* The Sheriff, under the advisement of the Advisory Board and the city, shall determine the most appropriate manner of providing law enforcement services to the city.

(E) *Reporting.* The Sheriff shall provide to the city a monthly report of activities generated as a result of this contract. This report shall include response times and the number of calls for service, reported crimes, arrests, crimes cleared by arrest, traffic citations, court appearances and items of recovery.

(F) *Service management.* The planning, organization, scheduling, direction and supervision of the Sheriff's personnel and all other matters incident to the delivery of general law enforcement services to the city shall be as determined by the Sheriff. The Sheriff shall retain exclusive authority over the activities of his or her personnel working in the city.

(G) *Responsiveness.* The Sheriff shall give prompt consideration to all requests of the city regarding the delivery of general law enforcement services. The Sheriff shall make every effort to comply with these requests if they are consistent with good law enforcement practices. Special duties such as social events will be allowed as long as written notice is given to the Sheriff by the City Council five working days prior to the event so that it can be fit into the department scheduling requirements.

(H) *Dispute resolution.* Any conflict between parties regarding the extent or manner of performance of the general law enforcement services delivered to the city shall be resolved by the Sheriff, whose decision shall be final and conclusive.

(I) *Coordination.* The city and the Sheriff shall each designate a specific individual and alternatives to make or receive requests and to confer upon matters concerning the delivery of general law enforcement services to the city.

(Ord. passed 9-15-1999)

§ 32.05 RESOURCES.

(A) *County responsibilities.* Except as otherwise stipulated, the county shall furnish all labor, equipment, facilities and supplies required to provide general law enforcement services to the city.

(B) *City responsibilities.* The city shall pay the fees required as set forth in § 32.09.

(Ord. passed 9-15-1999)

§ 32.06 LIABILITY.

(A) *County.* The county shall assume liability for, defend against and secure the city from all costs or damages for injury to person or property caused by the negligence or intentional misconduct of the Sheriff's personnel in providing or failing to provide general law enforcement services to the city.

(B) *City.* The city shall assume liability for, defend against and exempt the county from all costs or damages for injury to person or property caused by the city.

(Ord. passed 9-15-1999)

§ 32.07 PERSONNEL.

(A) *Employee status.* All persons employed by the Sheriff in providing general law enforcement services to the city shall be county officers or employees, and shall not have any benefit, status or right of city employment.

(B) *Payment.* The city shall not be liable for the direct payment of salaries, wages or other compensation to the county officers or employees providing general law enforcement services to the city.

(C) *Indemnity.* The city shall not be liable for indemnity to any county officer or employee for injury or sickness arising out of his or her employment in providing general law enforcement services to the city.

(Ord. passed 9-15-1999)

§ 32.08 LAW ENFORCEMENT ADVISORY BOARD.

(A) The County Law Enforcement Advisory Board, herein created, is hereby designated by the county and the above named municipality, as the formal forum for discussion of the execution of this contract and similar contracts with other municipalities in the county. The County Law Enforcement Advisory Board hereinafter will be known as "the Board."

(B) The Board shall consist of one representative from the governing body of the above named municipality; each of the governing bodies of municipalities in the contracts, and one representative of the Board of County Commissioners, with the

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Sheriff and States Attorney or his or her designate, acting as an ex-officio, non-voting member and Treasurer of said Board.

(1) On the Board, the representative from each governing unit in the contract will have one vote and majority vote shall rule. The duly elected, qualified and acting States Attorney for Kingsbury County, South Dakota, shall act as a permanent Chairperson of said Board with a vote only in the event that a vote by the members of said Board should result in a tie.

(2) The Board shall meet monthly at a time designated by the said Board and for special meetings as may be required by the Chairperson of said Board.

(C) The Board, on the recommendations of the Sheriff, shall assist in formulating the overall policies and procedures of the Department.

(D) The Board shall be created for a period of one year with continuation for any further period based on an evaluation of services provided and consent of each unit of government a party to the agreement.

(E) It shall be the responsibility of the Board to advise the Sheriff in the following areas:

- (1) Standards for quality and quantity of service;
- (2) Department operating policies and procedures;
- (3) Budget review;
- (4) Establishing law enforcement priorities; and
- (5) Levels of service to participating municipalities.

(F) In addition, the Board will provide a forum for the discussion of this program and for identifying, discussing and resolving problems and disputes.

(Ord. passed 9-15-1999)

§ 32.09 FEES.

(A) *Total sum.* The City shall pay the total sum as contracted would specify for general law enforcement services delivered during the terms of the agreement.”

(B) *Computation.* This total sum shall not include expenses attributable to the services or facilities normally provided to all cities within the county as part of enforcement duties and functions customarily performed by the Sheriff under the Charter of the county and the statutes of this state.

(C) *Adjustment.* For contract renewal, the county may adjust the total sum in accordance with changes in the costs of providing general law enforcement services. The county shall notify the city in writing of each adjustment. The adjusted rate shall become effective on the first of the next calendar year following the date of notice.

(D) *Billing and payment.* The county shall bill the city within ten days after the close of each calendar month for all general law enforcement services provided during that month. The city shall pay for these services within 20 days after the date of the county’s billing.

(E) *Delinquency.* If the city does not make payment within 30 days after the date due, the county may terminate this agreement. The city shall be liable for general law enforcement services rendered to the time of termination.

(Ord. passed 9-15-1999, Ord amended 3-16-2026)

§ 32.10 NON-ACCESSIBILITY HOLD HARMLESS.

The services of the county to be performed hereunder, shall not be assigned, sublet or transferred to any other corporation or organization without written approval of the city.
(Ord. passed 9-15-1999)

CHAPTER 33: TAX AND FINANCE

Section

Sales and Service Tax and Use Tax

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- 33.02 Enactment of tax
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- 33.05 Interpretation

- 33.99 Penalty

SALES AND SERVICE TAX AND USE TAX

§ 33.01 IMPOSING A TAX.

By this subchapter, the city does hereby impose municipal retail sales and use tax pursuant to the powers granted to the municipality by the state, by SDCL § 10-52 entitled Uniform Municipal Non-Ad Valorem Tax Law, and acts amendatory thereto.
(Ord. 291, passed 3-7-2011)

§ 33.02 ENACTMENT OF TAX.

From and after July 1, 2011, or as early as can be imposed under the provisions of SDCL § 10-52-9, there is hereby imposed as a municipal retail occupational sales and service tax upon the privilege of engaging in business a tax measured by 2% on the gross receipts of all persons engaged in business within the jurisdiction of the city, who are subject to the State Retail Occupational Sales and Service Tax, SDCL § 10-45 and acts amendatory thereto.
(Ord. 291, passed 3-7-2011)

§ 33.03 USE TAX.

In addition, there is hereby imposed an excise tax on the privilege of use, storage and consumption within the jurisdiction of the municipality of tangible personal property or services purchased from and after July 1, 2011, at the same rate as the municipal sales and service tax upon all transactions or use, storage and consumption which are subject to the State Use Tax Act, SDCL § 10-46, and acts amendatory thereto. (Ord. 291, passed 3-7-2011)

§ 33.04 COLLECTION.

Such tax is levied pursuant to authorization granted by SDCL § 10-52 and acts amendatory thereto, and shall be collected by the State Department of Revenue and Regulation in accordance with the same rules and regulations applicable to the state sales tax and under such additional rules and regulations as the Secretary of Revenue and Regulation of the state shall lawfully prescribe. (Ord. 291, passed 3-7-2011)

§ 33.05 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 Retail Occupational Sales and Service Act, SDCL § 10-45 and acts amendatory thereto and the State Use Tax, SDCL § 10-46 and acts amendatory hereto, and that this shall be considered a similar tax except for the rate thereof to that tax. (Ord. 291, passed 3-7-2011)

§ 33.99 PENALTY.

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

(B) Any person failing or refusing to make reports or payments prescribed by §§ 33.01 through 33.05 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 § 10-45, and acts amendatory thereto, and SDCL § 10-46, and acts amendatory thereto are hereby authorized for the collection of these excise taxes by the Department of Revenue and Regulation. (Ord. 291, passed 3-7-2011)

CHAPTER 34: POLICIES AND PROCEDURES

Section

Affirmative Action Plan

- 34.01 Policy
- 34.02 Administration
- 34.03 Implementation

AFFIRMATIVE ACTION PLAN

§ 34.01 POLICY.

(A) (1) It is the policy and the law of the city to provide equal opportunity to all employees and applicants for employment without regard to race, color, sex, creed, religion, ancestry, age or national origin.

(2) Affirmative action shall be taken to ensure the implementation of this policy in city government employment.

(3) This policy and the obligation to provide equal employment opportunity includes:

- (a) Hiring, placement, upgrading, transfer or demotion;
- (b) Recruitment, advertising or solicitation for employment;
- (c) Treatment during employment;
- (d) Rates of pay or other forms of compensation;
- (e) Selection for training; and
- (f) Layoff or termination.

(B) This document is applicable to all employees of the city. It becomes effective upon adoption by the City Council and shall continue in effect until a revised plan is issued.

(C) This policy means that:

(1) Everyone is encouraged to apply for jobs, seek further training, compete for promotions and all will be afforded equal opportunity for development, advancement and job security;

(2) Competition around individuals for a specific job, training or promotion will be based on qualifications and demonstrated ability;

(3) Supervisors, at all levels, will insure that all actions affecting the individual employee will be accomplished within both the spirit and the letter of applicable equal employment opportunity guidelines; and

(4) All personnel responsible for these functions will plan and take affirmative action to achieve improvements of the status of minority group employees and women to the maximum extent possible under applicable laws and regulations.

(D) This policy is designed not only to ensure against any discriminatory practices, but is further designed to accomplish a positive, continuing and affirmative

equal employment opportunity program for all employees. Equal employment opportunity works hand in hand with merit principles and, thus, will provide the city with a fully integrated and highly skilled work force.

(Ord. passed - -)

§ 34.02 ADMINISTRATION.

(A) The City Council shall lend the full support of its office to the achievement of equal employment opportunity in city government.

(B) The Municipal Finance Officer shall serve as the city's Equal Employment Opportunity Officer. He or she will be responsible for ensuring that equal employment opportunity policies are vigorously carried out at all levels. The Municipal Finance Officer's duties shall include, but not be limited: implementation and evaluation of the city's Affirmative Action Plan; advising and providing technical assistance on equal employment opportunity at all levels of city government as necessary; suggesting any changes necessary to eliminate any discriminatory policies or practices; maintaining appropriate liaisons with community groups; and development of appropriate methods to educate supervisors and employees on equal employment opportunity.

(C) Each department head shall be responsible for implementing the policies set forth in § 34.01 and shall assure that no reprisal or retaliation is taken against any person who has filed a grievance or a formal or informal discrimination complaint or any person who has given testimony or aided in the resolution of a complaint.

(D) All supervisors shall be responsible for assuring equal employment opportunity in all aspects and conditions of employment.

(Ord. passed - -)

§ 34.03 IMPLEMENTATION.

(A) All recruitment effort shall emphasize that the city is an equal opportunity employer and is making every effort to be in compliance with the current posture of equal employment opportunity requirements.

(B) All selection procedures and criteria shall be nondiscriminatory and job related to assure reliability and validity for the purpose of predicting successful job performance and shall be reviewed as necessary to maintain this standard.

(C) Job classification and the procedures for upward mobility and promotion shall be nondiscriminatory and the requirements job related and the same shall be reviewed as necessary to maintain this standard.

(D) All education and training shall be provided on a nondiscriminatory basis to all levels of employees and there shall be an on-going program of dissemination of equal employment opportunity information to all levels of employees.

(E) Other terms and conditions of an employee's work environment, including, but not limited to, insurance, vacation, leave of absence, fringe benefits and social, professional and athletic opportunities shall comply with the current posture of the equal employment opportunity laws and requirements.

(Ord. passed - -)

TITLE V: PUBLIC WORKS

Chapter

50. SOLID WASTE

51. SEWER

CHAPTER 50: SOLID WASTE

Section

Garbage Disposal Site

50.01 Closing city garbage disposal site

Collection of Solid Waste

50.15 Declaration of policy

50.16 Definitions

50.17 Administration

50.18 Standards and regulations

50.19 Prohibited activities and nuisances

50.20 Enforcement

50.21 Disconnection for late payment

50.99 Penalty

GARBAGE DISPOSAL SITE

§ 50.01 CLOSING CITY GARBAGE DISPOSAL SITE.

(A) (1) The existing city garbage disposal site located in the NW Quarter of 27-109-54, Kingsbury County, South Dakota, constitutes a nuisance which must be abated.

(2) Therefore, said site is hereby closed to all disposal of any sort, and all dumping is hereby prohibited.

(B) Any person who dumps any garbage, trash, refuse or rubbish on said site shall be in violation of this section.

(Ord. 163, passed - -) Penalty, see § 50.99

COLLECTION OF SOLID WASTE

§ 50.15 DECLARATION OF POLICY.

To provide a municipal system for collection and disposal of solid waste produced within the city for the preservation of the public health, welfare and safety. (Ord. 161, passed - -)

§ 50.16 DEFINITIONS.

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

COUNCIL. The City Council of Oldham, South Dakota.

BULKY REFUSE. Includes items or rubbish either too large or too heavy to be loaded in refuse collection vehicles with safety and convenience by refuse collectors with the equipment therefor.

GARBAGE. Includes putrescible animal or vegetable wastes resulting from the handling, preparation, cooking, serving or consumption of food.

REFUSE. Includes unwanted or discarded waste materials in a solid or semi-liquid state, consisting of garbage, rubbish or a combination thereof.

RESIDENCE. A dwelling unit such as a home, trailer or multi-family dwelling of four or less units not including hotels or motels. Each unit of a multi-family dwelling shall be considered a separate dwelling unit for purposes of collection and billing.

RUBBISH. Includes non-putrescible solid wastes consisting of combustible and non-combustible waste materials from residential, apartment, commercial, industrial and institutional establishments, commonly referred to as trash and rubbish shall not include yard wastes and/or yard trimmings.

SOLID WASTE. Refuse, rubbish, garbage, trash and bulky refuse.

TRASH. Includes earth, soil, wood, dead trees and branches, clay, sand, bricks, plaster, cement, chips, shavings, rocks, sticks, old papers and magazines, paper or wood cartons, rags, sawdust, old clothing and all other combustible materials of a like nature which are not included in the definition of garbage.

YARD TRIMMINGS. Grass clippings, leaves, mulch and related residue. (Ord. 161, passed - -; Ord. passed - -)

§ 50.17 ADMINISTRATION.

- (A) Responsible agency: the City Council of Oldham, South Dakota.
- (B) Functions and powers of the City Council:
 - (1) To contract for disposal of garbage, refuse, non-bulky trash and rubbish. It shall not be required to accept the lowest bid but the Council may accept contractors it feels are best qualified;

- (2) To terminate contract upon the failure of contractor to conform to this subchapter after hearing;
 - (3) To regulate method of conveyance of solid waste and to approve all vehicles used;
 - (4) To charge for and supervise all collection and removal; and
 - (5) To cancel any charge for collection if it feels collection is not necessary.
- (Ord. 161, passed - -)

§ 50.18 STANDARDS AND REGULATIONS.

(A) All persons residing in a single-family dwelling and all owners of multiple-family dwellings containing three residential units or less shall be billed for the garbage collection services provided for in this subchapter by the city. The charges for collection services, including any regular service fees, administrative fees, and late fees, shall be in amounts established from time to time by resolution of the City Council. The City Council shall review such charges at least annually to determine if adjustments are necessary.

(B) The contract holder shall separately contract with, bill and collect from industrial, commercial and public establishments as well as all multiple-family dwelling units containing four or more units for collection services rendered.

(C) The contract holder shall make refuse collection one time weekly for residential wastes and as contracted with multiple-family dwellings and business establishments. Multiple-family dwellings and business establishment contracts require frequent enough pickup to avoid a health hazard or unsightly accumulation of trash. He or she will provide for an acceptable disposal of all wastes collected.

(D) Weeds, dry grass, dead trees, tin cans, abandoned autos and auto bodies and similar material upon any public or private property are declared a nuisance and shall be disposed of under this subchapter.

(E) Cultivated and useful grasses and pastures are not nuisances except when necessary firebreak requirements are not observed within seven days' notice.

(F) One or more suitable garbage cans, of galvanized metal, or a comparable material, not exceeding 30 gallons each, into which can be placed all the refuse that accumulates on the premises, will be placed at each pickup location by the resident. Each container shall be watertight, have tight-fitting cover, suitable handles and be maintained in a sanitary condition and in good repair. The garbage can shall not contain more than 60 pounds of refuse.

(G) Garbage can pickup points shall be at curbside only.

(H) The City Council may grant an exclusive contract to collect, haul and dispose of all solid wastes subject to the right of any resident to haul his or her own trash and bulky refuse.

(I) All vehicles used for the collection of solid wastes shall be kept in clean and sanitary condition at all times; in good and safe operating condition and shall be leakproof and protected against spilling or littering.

(J) Grass clippings, leaves and mulch and related yard waste shall not be required to be collected by the contract holder and shall not be included within other rubbish or trash so as to require its collection.

(Ord. 161, passed - -) Penalty, see § 50.99

§ 50.19 PROHIBITED ACTIVITIES AND NUISANCES.

(A) It shall be unlawful, for the purpose of private hauling of trash and bulky refuse, for any person not authorized by the City Council, to haul or drive a vehicle with trash or bulky refuse through the streets except in a vehicle properly covered so as to eliminate spilling and blowing of said trash and/or bulky refuse.

(B) It shall be unlawful and is hereby declared a nuisance for any solid waste material to accumulate more than 24 hours after notification by the health officer.

(C) It shall be unlawful and a nuisance to bury or attempt to bury any solid waste material within city limits, except where material is used as a soil conditioner or mulch in the cultivation of plants and then only if the waste is not a nuisance to surrounding residents.

(D) It shall be unlawful and is hereby declared a nuisance to deposit any solid waste materials on any public or private property other than certain designated and exempted wastes for which special areas have been set aside by the Commission.

(E) It shall be unlawful and is hereby declared a nuisance to fail to clean any premises, place all materials in containers and place containers in the proper position for collection.

(F) It shall be unlawful and is hereby declared a nuisance to burn garbage, refuse or trash within the city limits.

(G) It shall be unlawful and is hereby declared a nuisance to allow the scattering of solid waste upon public road rights-of-way.

(H) It shall be unlawful and is hereby declared a nuisance to burn within the city limits, except by incineration, with incinerators, which meet air pollution standards established by the State Air Pollution Control Regulations. The City Fire Department shall be called to extinguish all fires burning within the city limits. If it is deemed that a fire was started intentionally, the person responsible for starting the fire shall be charged and responsible for the cost of extinguishing as determined by the City Fire Department.

(Ord. 161, passed - -; Ord. 215, passed 7-8-2002) Penalty, see § 50.99

§ 50.20 ENFORCEMENT.

(A) Administrative proceedings.

(1) If a nuisance exists, a notice of violation shall be issued to the offender, to the concerned property owner, and to the person in possession of the property whereon the offense was committed, directing abatement.

(2) Notice may be served upon the offender, the concerned property owner, and the person in possession of the property whereon the offense was committed by personal service, by registered mail, or by posting notice in a conspicuous

place within the city limits, and by publication for a period of one week in the legal newspaper of the city.

(3) Within 14 days after completion of the notice herein above mentioned in division (A)(2) above, appeal may be filed by the offender, the concerned property owner, or the person in possession of the property whereon the offense was committed with the City Council. Within 15 days after filing, appeal shall be heard before the City Council. All persons who fail to protest shall be deemed to have waived all objections.

(4) Abatement shall be accomplished within 14 days after notification of the decision of the City Council, unless the offender, concerned property owner or the person in possession of the property whereon the offense was committed can show cause why more time is needed. Notification of the City Council shall be mailed by registered or certified mail.

(5) If the abatement is not completed within the time herein above mentioned in division (A)(4) above, the city shall abate the nuisance and file an account with the City Council, which account shall specify the sum expended in abating the nuisance.

(6) At least seven days after filing of the account herein above mentioned in division (A)(6) above, the City Council shall hold a hearing. Notice announcing the time of the City Council meeting shall be mailed by registered or certified mail to the concerned property owner, to the person in possession and to the offender at least seven days prior to said hearing.

(7) The City Council shall hear the matter and if the account is accepted, the amount thereof shall become a lien upon the property whereon the offense was committed.

(8) Abandoned junk cars, derelict and scrap metals considered by the Council to be a nuisance, will be removed to an appropriate marshaling site as provided for in SDCL Chapter 32-36, § 1-11.

(9) If a contractor fails to perform to the contract or this subchapter, the City Council may, at its option and after a hearing, terminate the contract upon ten days' notice and let a new contract.

(B) The contractor performance bonds shall be in an amount of not less than \$4,000.

(C) Insurance requirement for collection contractors.

(1) Bodily injury: \$50,000 one person; \$700,000 each accident.

(2) Property damage: \$50,000.

(Ord. 161, passed - -)

§ 50.21 DISCONNECTION FOR LATE PAYMENT.

(A) It is the policy of the city to discontinue garbage collection service or pursue other remedies for nonpayment of bills only after notice and a meaningful opportunity to be heard on disputed bills. The city's bills shall contain clearly visible provisions to the effect:

(1) That all bills are due and payable on or before the 15th day of each

given month; and

(2) That if any bill is not paid by the 18th day of each given month, a late fee, will be applied to the following bill, service may be discontinued or other collection actions taken:

(B) Requests for delays or waiver of payment will not be entertained except for questions of proper billing. In the absence of payment or resort to the hearing procedure, service may be discontinued after charges have been due and unpaid for at least thirty (30) days.

(C) When outstanding garbage collection bills reach, *an amount established by resolution*, or more, the City Council shall notify the resident via certified mail that a payment plan must be arranged, or the bill paid in full within thirty (30) days. If no satisfactory payment plan is agreed upon or payments are not made as agreed, the City may pursue collection through small claims court or other legal means. Any associated collection costs may be added to the bill."

(Ord. 2026-01 (amending 50.21), passed 3-16 -26)

§ 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.

(B) A violation of § 50.01 shall be punishable by confinement of not to exceed 30 days, a fine not to exceed \$100, or by both such confinement and fine.

(C) Violation of §§ 50.15 through 50.21 is a misdemeanor punishable by a fine not to exceed \$100 or by imprisonment not to exceed 30 days, or by both such fine and imprisonment. Each violation shall be a separate and distinct offense.

(Ord. 161, passed - -; Ord. 163, passed - -)

CHAPTER 51: SEWER

Section

51.01 Unlawful discharge into sewers

§ 51.01 UNLAWFUL DISCHARGE INTO SEWERS.

(A) No person shall discharge or cause be discharged, any storm water, surface water, ground water, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted industrial process waters to any sanitary sewers.

(B) The city shall initiate a sanitary sewer inspection and take any corrective action necessary eliminate the discharge of any existing clear water connections into the sanitary sewer system.

(C) Any connection to the sanitary sewer system shall be made by and with the consent of the city a shall pass the inspection requirements, rules and regulate that may be promulgated from time to time by the city.

(D) Any willful and persistent violation of division (A) above shall constitute a misdemeanor and shall be punishable as such, and in addition thereto, city shall deem such violation a nuisance and shall have necessary power and authority to abate the same forthwith without further notice.

(Ord. 200, passed 11-6-1995) Penalty, see § 10.99

TITLE VII: TRAFFIC CODE

Chapter

- 70. TRAFFIC REGULATIONS**
- 71. SNOW EMERGENCIES**
- 72. PARKING REGULATIONS; TOWING**
- 73. TRAFFIC SCHEDULES**
- 74. PARKING SCHEDULES**

CHAPTER 70: TRAFFIC REGULATIONS

Section

- 70.01 Definitions
- 70.02 Police to direct traffic
- 70.03 Obedience to police
- 70.04 Exemptions to authorized emergency vehicles
- 70.05 Traffic signs and signals
- 70.06 Obedience to traffic signs and signals
- 70.07 Interference with, or unauthorized signs and signals
- 70.08 Pedestrians' rights and rules
- 70.09 Pedestrians' right-of-way
- 70.10 Pedestrians' rights and duties at controlled intersections
- 70.11 Boarding or alighting from vehicles
- 70.12 Operation of vehicle
- 70.13 Overtaking a vehicle
- 70.14 Overtaken vehicle
- 70.15 Right turns
- 70.16 Left turns
- 70.17 U-turns
- 70.18 Backing
- 70.19 Starting
- 70.20 Right-of-way
- 70.21 Motor vehicles left unattended
- 70.22 Following fire apparatus prohibited

Oldham, SD Code of Ordinances

70.23	Crossing fire hose
70.24	Duty to stop in event of accident
70.25	Projecting loads
70.26	Muffler
70.27	Brakes and signaling device
70.28	Signals
70.29	Head lamps; sunset and sunrise
70.30	Speed
70.31	Weight of the vehicles and loads
70.32	Riding bicycles on sidewalk prohibited
70.33	Lights on bicycles
70.34	Coasters, roller skates and similar devices
70.35	Riding on outside of vehicle
70.36	Reckless driving
70.37	Exhibition driving
70.38	Procedure in case of traffic violations
70.99	Penalty

§ 70.01 DEFINITIONS.

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

AUTHORIZED EMERGENCY VEHICLES. Vehicles of the Fire Department, and such police vehicles and ambulances as are designated or authorized by the Chief of Police.

BUSINESS SECTION. Blocks.

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

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

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 a street alongside and parallel to another vehicle which is parked parallel at the curb.

INTERSECTION. The part of a street where a street 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 intersecting streets.

OFFICIAL TRAFFIC SIGNS AND SIGNALS. All signs, markings or signs, not inconsistent with title, placed or erected by authority of the governing body of official having jurisdiction, for the purpose of guiding, directing, warning or regulating traffic.

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

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

PEDESTRIAN. Any person afoot.

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

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

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

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

STREET. Every way set apart for public travel, except foot paths.

TRAFFIC. Pedestrians and vehicles while using any street for purpose of travel.

VEHICLE. Every device in, upon or by which any person or property is or may be transported or drawn upon a street, excepting devices moved by human power or used exclusively upon stationary rails or tracks, except that all sections of this title concerning operation of vehicles and rules of the road shall apply to bicycles and they shall be deemed vehicle for the purpose of these sections.

(Ord. passed - -)

§ 70.02 POLICE TO DIRECT TRAFFIC.

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

(Ord. passed - -)

§ 70.03 OBEDIENCE TO POLICE.

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

(Ord. passed - -) Penalty, see § 70.99

§ 70.04 EXEMPTIONS TO AUTHORIZED EMERGENCY VEHICLES.

(A) The provisions of title regulating the movement, parking and standing of vehicles shall not apply to authorized emergency vehicles as defined in title while the operator of such vehicle is operating the same in an emergency in the necessary performance of public duties.

(B) This exemption shall not, however, protect the driver of any such vehicle from the consequence of a reckless disregard for the safety of others.
(Ord. passed - -)

§ 70.05 TRAFFIC SIGNS AND SIGNALS.

The governing body shall be resolution determine and designate the character or type of all official traffic signs and signals, all such signs and signals to be uniform through the city, as far as is practicable, provided that all official traffic signs and signals, now erected and in operation are hereby designated official traffic signs and signals.
(Ord. passed - -)

§ 70.06 OBEDIENCE TO TRAFFIC SIGNS AND SIGNALS.

It shall be unlawful for any person to disobey the instructions of any official sign or signal upon the streets placed in accordance with the provisions of title, unless otherwise directed by a police officer; and no provision of title for which signs are required shall be enforceable against an alleged violator if, at the time and place of alleged violation, the sign herein required is not in proper position and sufficiently legible to be seen by an ordinarily observant person.
(Ord. passed - -) Penalty, see § 70.99

§ 70.07 INTERFERENCE WITH, OR UNAUTHORIZED SIGNS AND SIGNALS.

It shall be unlawful for any person to willfully deface, injure, move, obstruct or interfere with any official traffic sign or signal. 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 any official traffic sign or signal, or which attempts to direct the movement of traffic. 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 to cause it to be removed without notice.
(Ord. passed - -) Penalty, see § 70.99

§ 70.08 PEDESTRIANS' RIGHTS AND RULES.

It shall be unlawful for any pedestrian to go from one side of the street to the other except at right angle at regular crosswalks at the end of a block upon any street in the business section or on any through street, and shall use the right half of crosswalk when crossing said street.
(Ord. passed - -) Penalty, see § 70.99

§ 70.09 PEDESTRIANS' RIGHT-OF-WAY.

The operator of any vehicle shall yield the right-of-way to a pedestrian crossing the roadway within any unmarked crosswalk at the end of a block, or entrance to alley, except at intersections where the movement of traffic is being regulated by police officers or traffic-control signals. Whenever any vehicle has stopped at a cross walk or 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.

(Ord. passed - -) Penalty, see § 70.99

§ 70.10 PEDESTRIANS' RIGHTS AND DUTIES AT CONTROLLED INTERSECTIONS.

At intersections where traffic is controlled by traffic-control signals or by traffic or police officer, a pedestrian shall yield the right-of-way to vehicles lawfully proceeding directly ahead on a "GO" signal and the operator of a vehicle shall yield the right-of-way to pedestrians crossing or those who have started to cross the street, at all time when a "STOP" signal has been given to vehicular traffic.

(Ord. passed - -) Penalty, see § 70.99

§ 70.11 BOARDING OR ALIGHTING FROM VEHICLES.

It shall be unlawful for any person to board or alight from any vehicle while such vehicle is in motion.

(Ord. passed - -) Penalty, see § 70.99

§ 70.12 OPERATION OF VEHICLE.

Upon all streets, except one-way streets, the operator of a vehicle shall drive the same upon the right half of the street and as near as practicable to the right-hand curb.

(Ord. passed - -) Penalty, see § 70.99

§ 70.13 OVERTAKING A VEHICLE.

The operator of any vehicle overtaking another vehicle approaching from the rear shall give way to the right in favor of the overtaking vehicle on suitable and audible signal being given by the driver of the overtaking vehicle and shall not increase the speed of his or her vehicle until completely passed by the overtaking vehicle. No person shall drive any vehicle at any unnecessarily slow rate of speed so as to hinder and retard traffic.

(Ord. passed - -) Penalty, see § 70.99

§ 70.14 OVERTAKEN VEHICLE.

The operator of a vehicle upon a street about to be overtaken and passed by another vehicle approaching from the rear shall give way to the right in favor of the overtaking vehicle on suitable and audible signal being given by the driver of the overtaking vehicle and shall not increase the speed of his or her vehicle until completely passed by the overtaking vehicle. No person shall drive any vehicle at any unnecessarily slow rate of speed so as to hinder and retard traffic.
(Ord. passed - -) Penalty, see § 70.99

§ 70.15 RIGHT TURNS.

The operator of a vehicle intending to turn to the right at an intersection or into an alley or driveway shall turn the corner as near the right-hand curb as practicable.
(Ord. passed - -) Penalty, see § 70.99

§ 70.16 LEFT TURNS.

At intersections, an operator of a vehicle intending to turn into a street to the left shall make what is commonly known as an **INSIDE LEFT TURN**, subject to the following regulations: such vehicle shall go diagonally across the intersection, keeping as close as practicable to the center of the intersection, and reaching the right-hand side of the street so being entered to the left as directly as practicable.
(Ord. passed - -) Penalty, see § 70.99

§ 70.17 U-TURNS.

No vehicle shall cross over from the right side of the street to the left side of the street, or make a complete turn around, or turn 180 degrees, on any street or avenue except upon an intersection of one street or avenue with another. No vehicle shall be permitted to make a complete turn around, or turn of 180 degrees at the intersection with other streets or avenues where official traffic signs indicate such is prohibited, or may hereafter be erected.
(Ord. passed - -) Penalty, see § 70.99

§ 70.18 BACKING.

It shall be unlawful to back a vehicle around a corner at an intersection, or into an intersection of public streets. No vehicle shall be backed without ample warning first having been given and, while backing, care must be exercised not to injure person or vehicle, or to block traffic.
(Ord. passed - -) Penalty, see § 70.99

§ 70.19 STARTING.

A standing vehicle about to start shall give moving vehicles the right-of-way, and the driver thereof shall give ample warning before so starting.
(Ord. passed - -) Penalty, see § 70.99

§ 70.20 RIGHT-OF-WAY.

(A) Ambulances, Fire and Police Department vehicles when responding to or returning from any emergency call, and funeral processions shall have the right-of-way over all other traffic and when the operator of such a vehicle on such a call shall give audible signal by bell, siren or exhaust whistle or the same is apparent the operator of every other vehicle shall immediately drive his or her vehicle as near as possible and parallel to the right-hand curb of the street, clear of any intersection, and shall stop and remain in such position until such emergency vehicle or funeral procession shall have passed, unless otherwise directed by a police officer. Vehicles traveling upon a through street shall have the right-of-way over and as to vehicles traveling upon all streets intersecting therewith. Except when traveling on a through street, every operator of a vehicle approaching the intersection of street shall grant and relinquish the right-of-way at such intersection to any vehicle approaching such intersection from his or her right. The operator of a vehicle emerging from an alley, private driveway or building into a street shall grant and relinquish the right-of-way to vehicles traveling upon the street.

(B) Notwithstanding any of the provisions herein contained, whenever traffic officers are stationed at any intersection, they shall have full power to regulate traffic.

(C) The operator of a vehicle emerging from any alley, private driveway or building into a street shall grant and relinquish the right-of-way to vehicles traveling upon the street.

(Ord. passed - -) Penalty, see § 70.99

§ 70.21 MOTOR VEHICLES LEFT UNATTENDED.

No person having control or charge of a motor vehicle shall allow such vehicle to stand on any street unattended without first setting the brakes thereon and stopping the motor of said vehicle.

(Ord. passed - -) Penalty, see § 70.99

§ 70.22 FOLLOWING FIRE APPARATUS PROHIBITED.

It shall be unlawful for the operator of any vehicle other than one on official business to follow closer than 500 feet of any fire vehicle traveling in response to a fire alarm, or to drive into or stop any vehicle within the block where the fire apparatus has stopped in answer to the fire alarm.

(Ord. passed - -) Penalty, see § 70.99

§ 70.23 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 Department official in charge.

(Ord. passed - -) Penalty, see § 70.99

§ 70.24 DUTY TO STOP IN EVENT OF ACCIDENT.

The driver of any vehicle involved in an accident resulting in injury or death to any person or damage to property shall immediately stop such vehicle at the scene of such accident and shall give his or her name and address and registration number of his or her vehicle to the person struck or the driver or occupant 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 and shall forthwith report the accident to the Police Department stating the place of accident and the kind and the kind and extent of the damage caused.

(Ord. passed - -) Penalty, see § 70.99

§ 70.25 PROJECTING LOADS.

No person shall drive any vehicle upon any street in the city with any load or part of a load projecting more than four feet beyond the rear end or front end, or more than two feet beyond the sides of the body or carrying part of said vehicle, unless there be attached to the extreme ends and sides of such projecting load some warning sign or signal plainly discernible to other drivers and clearly indicating the projecting parts of such load.

(Ord. passed - -) Penalty, see § 70.99

§ 70.26 MUFFLER.

It shall be unlawful to operate a motor vehicle unless such motor vehicle is provided with a muffler, which at all times shall be kept closed so that the exhaust is effectively muffled. It shall be unlawful to operate a motor vehicle in such a manner as to emit unnecessary or excessive smoke from the motor of such vehicle.

(Ord. passed - -) Penalty, see § 70.99

§ 70.27 BRAKES AND SIGNALING DEVICE.

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

(Ord. passed - -) Penalty, see § 70.99

§ 70.28 SIGNALS.

(A) The driver of a vehicle shall give timely warning by signaling with the hand or in some other plainly discernible manner indicating the intention to slow up, turn or stop.

(B) The signal given to indicate the intention of a driver to slow up, turn or stop must be plainly discernible from the rear of such vehicle.

(C) Hand signals used shall be as follows:

(1) Left arm straight out for turn in direction pointed;

(2) Left arm pointed upward for turn in direction opposite to such arm;

and

(3) Left arm pointed down for stopping or suddenly checking speed.

(Ord. passed - -) Penalty, see § 70.99

§ 70.29 HEAD LAMPS; SUNSET AND SUNRISE.

A vehicle shall, while in motion during the period from a half hour after sunset to half an hour before sunrise, display such lamps as are mandated by the laws of the state.

(Ord. passed - -) Penalty, see § 70.99

§ 70.30 SPEED.

(A) The City Council shall establish speed zones within the city, which speed zones shall be conspicuously posted.

(B) It shall be unlawful for the of any vehicle to exceed the posted speed limit. Unless otherwise posted, the driver of any vehicle shall not exceed 20 mph on any street or 15 mph in any alley.

(Ord. passed - -) Penalty, see § 70.99

§ 70.31 WEIGHT OF THE VEHICLES AND LOADS.

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

(Ord. passed - -) Penalty, see § 70.99

§ 70.32 RIDING BICYCLES ON SIDEWALK PROHIBITED.

No person shall ride any bicycle on the sidewalks, footpaths or lengthwise of crosswalks in the city, and shall ride said bicycle as near the right-hand curb as may be practicable, and in such manner as not to interfere with pedestrians or heavier or faster traveling vehicles. The rules of the road as set forth in title shall be the same to govern bicycle riding.

(Ord. passed - -) Penalty, see § 70.99

§ 70.33 LIGHTS ON BICYCLES.

No person shall ride any bicycle upon the streets or alleys in the night time without displaying a lighted light upon such bicycle which shall be so placed as to give warning to others and enable the rider to see at least 20 feet ahead.

(Ord. passed - -) Penalty, see § 70.99

§ 70.34 COASTERS, ROLLER SKATES AND SIMILAR DEVICES.

It shall be unlawful for any person on roller skates, or riding in or by means of any coaster, toy vehicle or similar device, to go upon any roadway except while crossing a street or crosswalk.

(Ord. passed - -) Penalty, see § 70.99

§ 70.35 RIDING ON OUTSIDE OF VEHICLE.

It shall be unlawful for any person to ride upon the running board or fenders of any motor vehicle which the vehicle is in motion.

(Ord. passed - -) Penalty, see § 70.99

§ 70.36 RECKLESS DRIVING.

Any person driving a vehicle upon the streets or alleys of the city carelessly and heedlessly in disregard of the rights or safety of others, or without due caution and circumspection or at a speed or in a manner so as to endanger or be likely to endanger other persons or property, will be guilty of reckless driving.

(Ord. passed - -) Penalty, see § 70.99

§ 70.37 EXHIBITION DRIVING.

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

(Ord. passed - -) Penalty, see § 70.99

§ 70.38 PROCEDURE IN CASE OF TRAFFIC VIOLATIONS.

In case of violation of traffic ordinances of the city, the following special rules of procedure shall govern.

(A) *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 reasonable 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.

(B) *Notice to appear.* A person charged with violation of a traffic ordinance by notice shall be given a notice to appear before a magistrate at the time or within the time stated in such notice, and that in event of a failure to do so, a warrant will be issued for his or her arrest. The violator shall be charged by means of the appropriate uniform traffic citation of the state.

(C) *Appearance.* A person who has received a notice of traffic violation through the police shall at or within the time specified in such notice answer to the charge set forth therein, according to the procedure of that court, and if he or she shall fail to appear as herein provided, a warrant may issue for his or her arrest, as in other cases or violation of ordinances.

(Ord. passed - -)

§ 70.99 PENALTY.

A violation of any of the provisions of title shall be punishable of a fine of not exceeding \$100 or by confinement in jail for a period of not exceeding 30 days, or by both such fine and confinement.

(Ord. passed - -)

CHAPTER 71: SNOW EMERGENCIES

Section

- 71.01 Snow emergency
- 71.02 Designation of representative
- 71.03 Parking prohibited

- 71.99 Penalty

§ 71.01 SNOW EMERGENCY.

A snow emergency shall be in effect any time there is two or more inches of snow on the public streets, or when the authorized representative of the city finds that falling snow, sleet or freezing rain will create conditions causing potential dangerous driving conditions.

(Ord. 287, passed 5-3-2010)

§ 71.02 DESIGNATION OF REPRESENTATIVE.

The city authorizes the Mayor to be its designated representative. In the absence of the Mayor, the senior members of the Commission shall be the designated representative for declaration of a snow emergency.

(Ord. 287, passed 5-3-2010)

§ 71.03 PARKING PROHIBITED.

Upon the accumulation of two inches or more of snow on the public streets or the declaration of a snow emergency due to falling snow, sleet or freezing rain, during the time of such prohibition no person shall park any vehicle on the streets or alleys within the city as restricted or prohibited by this chapter.

(A) Restrictions and prohibitions of parking under the authority of this section shall remain in effect until the designated representative announces the termination of the snow emergency alert or upon the street be cleared, whichever comes first.

(B) Notwithstanding the automatic effectiveness of this chapter, upon two inches of snow being fallen, the notice of the snow emergency alert, or its termination shall be made between the hours of 6:00 a.m. and 9:00 p.m. by means of a radio broadcast from KJAM radio, Madison, South Dakota. Each such announcement shall state the time the snow emergency regulations become effective, but in no event shall the notice be less than two hours.

(C) Nothing contained in this chapter shall operate to prevent the designated representative from stating in advance of 6:00 a.m. the intention to declare a snow emergency, or after that time, nor shall anything contained operate to prevent the designated representative from announcing through the means set forth in this ordinance that the emergency alert has been terminated or that none is in effect.

(Ord. 287, passed 5-3-2010)

§ 71.99 PENALTY.

The penalty for each violation of this chapter shall be \$25, in the event the vehicle is not removed within twenty 24 hours of the first citation the owner of said vehicle shall be subject to an additional \$25 for the second offense and \$50 for the third offense and each violation thereafter. Any vehicle(s) parked in violation of this chapter

may be towed at the owner's expense if the vehicle has not been removed within 24 hours from the issuance of the first citation.
(Ord. 287, passed 5-3-2010)

CHAPTER 72: PARKING REGULATIONS; TOWING

Section

General Provisions

- 72.01 Stopping, standing and parking
- 72.02 Parking of trucks
- 72.03 Crossing into oncoming lane of traffic to park
- 72.04 Parallel and diagonal parking
- 72.05 Limited time parking, nuisance, removal of vehicles or obstructions; cost, recovery by owner
- 72.06 Removal of vehicle for street cleaning or maintenance

Ticketing and Towing of Vehicles Improperly Parked

- 72.20 Presumption of operation
- 72.21 Standing and parking generally
- 72.22 Maximum parking limit
- 72.23 No parking; limited parking zones
- 72.24 Impoundment
- 72.25 Violation

- 72.99 Penalty

GENERAL PROVISIONS

§ 72.01 STOPPING, STANDING AND PARKING.

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

- (A) Within an intersection;
- (B) On a crosswalk;
- (C) Outside the first line of cars parked next to the curb, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading;
- (D) Within 25 feet of the intersection of curb lines;
- (E) Within 15 feet of the driveway entrance to a fire station;
- (F) Within 15 feet of a fire hydrant;

- (G) In front of a private driveway;
 - (H) On a sidewalk; or
 - (I) Alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic.
- (Ord. passed - -) Penalty, see § 72.99

§ 72.02 PARKING OF TRUCKS.

All freight and stock trucks shall be parked in the city at such places only as have been marked and designated by the City Council; provided, however, that this section shall not apply to light delivery trucks of under 10,000 pounds per axle delivering goods from house to house and place to place which requires a stop or parking of but a few minutes to receive or deliver merchandise.

(Ord. passed - -) Penalty, see § 72.99

§ 72.03 CROSSING INTO ONCOMING LANE OF TRAFFIC TO PARK.

It shall be unlawful for a vehicle to cross into the oncoming lane of traffic when parking.

(Ord. passed - -) Penalty, see § 72.99

§ 72.04 PARALLEL AND DIAGONAL PARKING.

No vehicle shall be parked on any street, except such vehicle be parked parallel to the curb, headed in the direction of traffic, with curbside wheels of the vehicle within 12 inches of the curb, and no closer than four feet to any other vehicle front or rear, except upon those streets which have been designated, marked or assigned for angle parking, vehicles shall be parked at the angle to the curb indicated by such marks or signs.

(Ord. passed - -) Penalty, see § 72.99

§ 72.05 LIMITED TIME PARKING, NUISANCE, REMOVAL OF VEHICLES OR OBSTRUCTIONS; COSTS, RECOVERY BY OWNER.

(A) No vehicles or other obstruction shall be allowed to stand or remain parked unattended any street or alley within the city for more than 24 hours at any one time. Any vehicle or other obstruction allowed to stand or remain parked unattended on such streets for more than such a period shall be deemed and declared and hereby is deemed and declared to be a public nuisance and any regular or special police officer of the city is authorized and directed to order to owner or operator of such vehicle or other obstruction to remove the same and if said owner or operator fails or refuses to remove the same within a reasonable time or cannot with reasonable diligence be found, said

regular or special police officer is authorized and directed to remove such vehicle or other obstruction from said streets and take the same into his or her possession and impound it by placing and keeping the vehicle or other obstruction so impounded at any public garage at the expense of the owner, or at any other place as the City Council may from time to time, by resolution, direct. The Street Commissioner and any employees of the city engaged in street maintenance shall, at the request of said regular or special police officer, aid in the removal and impounding of any vehicle or other obstruction as above provided, and may use any equipment owned by the city for that purpose.

(B) Any owner or person entitled to possession of a vehicle or other property so impounded may secure possession of said vehicle or other property by proving to the reasonable satisfaction of said regular or special police officer that he or she is the owner or entitled to the possession thereof, and, if stored in a public garage, paying the storage and towing fee therefor a sum equal to \$10 for each day said vehicle or other property is impounded by the city under this section. All sums so collected shall be paid into the City Treasury by the collecting officer to reimburse the city for the expense of removing and impounding and shall be credited to the General Fund.
(Ord. passed - -) Penalty, see § 72.99

§ 72.06 REMOVAL OF VEHICLE FOR STREET CLEANING OR MAINTENANCE.

(A) The Street Commissioner or any employee of the city engaged in the removal of snow from the streets or the cleaning or in the repair and other maintenance of said streets and alleys may require the owner or operator of any vehicle or any other obstruction parked in any such street or alley to remove the same and, if the owner or any such vehicle or other obstruction within a reasonable time, the Street Commissioner or other employee of the city may remove such vehicle or other obstruction to some other suitable place.

(B) Any owner or operator of such vehicle or other obstruction who shall fail or refuse to remove the same within ten minutes time after being requested to do so shall be guilty of a misdemeanor and may be punished as provided in § 72.99.
(Ord. passed - -) Penalty, see § 72.99

TICKETING AND TOWING OF VEHICLES IMPROPERLY PARKED

§ 72.20 PRESUMPTION OF OPERATION.

In any proceeding for the violation of the terms of this subchapter, the state registration plate shall constitute in evidence a prima facie presumption that the individual in whose name said plate is registered is the lawful owner of said vehicle and that he or she was the person who parked or caused to be parked the vehicle illegally or in violation at the place where the violation occurred.

(Ord. 235, passed 6-4-2007)

§ 72.21 STANDING AND PARKING GENERALLY.

Except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a police officer or official traffic-control device, no person shall stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge a passenger or passengers:

- (A) In front of a public or private driveway;
- (B) Within 15 feet of a fire hydrant;
- (C) Within 30 feet upon the approach to any stop sign, or yield sign located at the side of a roadway;
- (D) Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 20 feet of said entrance when properly sign posted; or
- (E) At any street, alley or public parking lot where official signs prohibit standing or parking.

(Ord. 235, passed 6-4-2007) Penalty, see § 72.99

§ 72.22 MAXIMUM PARKING LIMIT.

No vehicle shall be parked on any street or public ground for a period longer than 24 hours in any one location, or 20 lineal foot area.

(Ord. 235, passed 6-4-2007) Penalty, see § 72.99

§ 72.23 NO PARKING; LIMITED PARKING ZONES.

No parking signs, indicating the appropriate hours shown below, shall be erected on the following streets or portions thereof, and no person shall park a vehicle on said streets or portions thereof during the indicated times.

(Ord. 235, passed 6-4-2007) Penalty, see § 72.99

§ 72.24 IMPOUNDMENT.

(A) The city or its authorized designees shall have the right to remove or cause to be removed any vehicle from any street or public right-of-way that may be abandoned, unlawfully parked or found to constitute a hazard to safety, where the owner or person in charge of such vehicle cannot be found or is unable to act, and, if necessary to enter such vehicle or cause the same to be placed in condition to be moved, and may employ any reputable person, engaged in the business of towing or storing vehicles for such purpose.

(B) Any person or organization employed by the city to move any vehicle as provided in this section shall exercise reasonable and ordinary care in doing so, and shall provide such storage facilities therefor as required by law of bailees-for-hire, and for such service and storage shall have a lien on such vehicle for the reasonable value of the charges for such towing, labor and storage.
(Ord. 235, passed 6-4-2007) Penalty, see § 72.99

§ 72.25 VIOLATION.

It shall be unlawful and a violation of this chapter for any person:

(A) To cause, allow, permit or suffer any vehicle registered or entitled to be registered in the name of, or operated by such person, to be parked over-time, or beyond the legal parking time established for any parking space as herein described beyond the maximum legal parking time for that particular parking space; and/or

(B) To permit any vehicle to remain or be placed in any parking space for a period longer than allowed by this subchapter.
(Ord. 235, passed 6-4-2007) Penalty, see § 72.99

§ 72.99 PENALTY.

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

(B) A violation of any of the provisions of §§ 72.01 through 72.06 shall be punishable of a fine of not exceeding \$100 or by confinement in jail for a period of not exceeding 30 days, or by both such fine and confinement.

(C) (1) Any person who operates a vehicle found in violation of §§ 72.20 through 72.25 shall, within 96 hours from the time when the notice of violation was attached to such vehicle, pay to the office of City Hall and/or to the Finance Officer, as penalty for and in full satisfaction of such violation, the sum of \$10.

(2) If said person fails to pay said sum within 96 hours, he or she shall, within two weeks from said 96-hour period, pay to said officer as penalty for and in full satisfaction of said violation the sum of \$25.

(3) Upon failure of said person to pay either of said sums to said office/officer within the time periods indicated, and upon conviction of a violation of this section, said person shall be guilty of committing a Class II misdemeanor and be subject to a penalty of \$500 and/or 30 days in jail.
(Ord. passed - -; Ord. 235, passed 6-4-2007)

CHAPTER 73: TRAFFIC SCHEDULES

Schedule

I. Truck traffic

SCHEDULE I. TRUCK TRAFFIC.

(A) *Definition.* When used in this schedule, the word **TRUCK** shall be defined as: a vehicle whose weight is more than 10,000 pounds per axle and/or whose gross weight is more than 30,000 pounds.

(B) *Restriction of Main Street.* No truck traffic shall be allowed on Main Street between the intersection of Main Street and Railroad Avenue west to the intersection of Main Street and Martha Avenue in the city.

(C) *Police authority.* Any police authority or designated public works official has the authority to require any person driving or in control of any truck to proceed to any public or private scale for the purpose of weighing and determining whether such truck is in violation of this schedule. Such authorities may issue a citation to any motor vehicle that exceeds the limits imposed by this schedule. Such authorities may detain such vehicles until the weight of such vehicles meets the limits imposed by this schedule. Such authorities may also issue a temporary permit for operation of such vehicles.

(D) *Temporary permits.* The Police Department and the Finance Officer have the authority, for cause or upon request, to issue temporary permits for trucks to operate over routes not established as the truck route by the City Council, or to otherwise deviate from the provisions of this schedule. Such action by the Police Department and Finance Officer is subject to review, modification or cancellation by the City Council. That upon application for such temporary permits, the applicant shall be required to post a deposit of \$50, which deposit, if the temporary permit is issued, shall be deemed to be the fee paid for said permit. In no event, however, shall it be mandatory that a temporary permit is issued.

(E) *Exceptions to use of truck routes.*

(1) *Emergency vehicles.* Emergency vehicles, including, but not limited to, law enforcement, ambulance, Fire Department, Health Department vehicles and tow trucks, may operate upon any street or highway in the city. Such emergency vehicles may include utility vehicles engaged in the performance of emergency duties.

(2) *Street repair or construction.* Use of the city streets for the operation of trucks owned or operated by the city, state, public utilities, any contractor or material men, while engaged in the repair, maintenance or construction of city streets, city street improvements or city-owned or contracted utilities or any other authorized city activity is permitted.

(F) *Penalty.* A violation of any of the provisions of this schedule shall be punishable by a fine not exceeding \$200 or by confinement in jail for a period not exceeding 30 days, or by both such fine and confinement.

(Ord. 220, passed 8-4-2003)

CHAPTER 74: PARKING SCHEDULES

Schedule

I. Double parking; center parking

SCHEDULE I. DOUBLE PARKING; CENTER PARKING.

All double parking and center parking be prohibited on Main Street effective immediately. Notice to such effect be published.
(Ord. passed - -)

TITLE IX: GENERAL REGULATIONS

Chapter

- 90. ANIMALS**
- 91. FAIR HOUSING**
- 92. NUISANCES**
- 93. FIREWORKS**
- 94. OPEN BURNING**
- 95. STREETS AND SIDEWALKS**

CHAPTER 90: ANIMALS

Section

General

- 90.001 Authority
- 90.002 Definitions
- 90.003 Animal control officer
- 90.004 Leash on dogs
- 90.005 Dog kennels

Vicious Animals

- 90.020 Ownership of vicious dog
- 90.021 Vicious dog defined
- 90.022 Injury to person trespassing; teasing dog; attempting to commit crime
- 90.023 Determination that animal is a vicious dog

Rabies Control

- 90.040 Vaccination required
- 90.041 Report of rabies
- 90.042 Impoundment of animal that has bitten or attacked
- 90.043 Confinement of pet after attack upon person
- 90.044 Confinement of pet bitten by animal suspected of having rabies
- 90.045 Destruction of animal required

Licensing

- 90.060 Licensing of dogs and cats required
- 90.061 Application for license certificate and tag

Miscellaneous Regulations

- 90.075 Keeping of animals
- 90.076 Disturbing the peace
- 90.077 Stray, abandoned or unkept animals
- 90.078 Number of pets limited
- 90.079 Responsibility
- 90.080 Running at large prohibited
- 90.081 Neglect, abandonment, mistreatment of animal
- 90.082 Cruelty to animals
- 90.083 Unattended animals

Impoundment

- 90.095 Authority to impound
- 90.096 Notice to owner
- 90.097 Redemption of animal by person other than owner
- 90.098 Disposition of unredeemed animals
- 90.099 Costs

Administration and Enforcement

- 90.115 Enforcement; authority
- 90.116 Interference with enforcement
- 90.117 Failure to comply with a warning ticket
- 90.118 Record keeping requirements
- 90.119 Payment of fees and charges; stopping payment or issuing bad check prohibited

- 90.999 Penalty

GENERAL

§ 90.001 AUTHORITY.

This municipality shall have the power to regulate or prohibit the running at large of dogs, animals, and poultry, to establish pounds, appoint poundmasters, and regulate the impounding of animals, and to impose a tax or license on dogs running at large pursuant to SDCL § 9-29-12.

§ 90.002 DEFINITIONS.

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

ABANDONMENT. Giving up with the intent of never again regaining one's interests in, or rights to, an animal other than placing ownership with a responsible party.

ANIMAL. Any mammal, bird, reptile, amphibian, or fish, except humans.

ANIMAL CONTROL OFFICER. An individual, approved by the governing body, with police authority, whose duty it is to apprehend animals within the jurisdiction of this chapter whose owner are in violation of this chapter. The police department shall also act as animal control officers.

ANIMAL SHELTER. A building and facilities therein approved by the governing board and the health authority for the impounding of animals.

ANTI-ESCAPE. Any housing, fencing or device which a guard dog cannot go over, under, through or around.

AT LARGE.

(1) An animal when off or away from the premises and not under the control of the owner, possessor, keeper, agent, servant, or a member of its immediate family by a leash.

(2) An animal when on the premises of the owner, possessor, keeper, agent, or servant if not attended by a competent person unless that animal is chained, restrained, enclosed, or confined in a manner preventing it from leaving the premises.

CONTRACTED AGENT. The person, organization, governmental agency or corporation with whom the municipality and/or county contracts to perform animal control functions.

DOMESTIC ANIMAL. Any animal that through long association with man, has been bred to a degree which has resulted in genetic changes affecting the temperament, color, conformation, or other attributes of the species to an extent that makes it unique and different from wild individuals of its kind.

EXPOSED TO RABIES. An animal has been **EXPOSED TO RABIES** if it has been bitten by, or been exposed to, any animal known to be or suspected of being infected with rabies.

GUARD DOG. Any dog that is utilized to protect commercial property, or is housed unattended on commercial property at any time other than normal business hours, except that such definition shall not apply to pet stores, boarding kennels, veterinary offices and animal shelters.

HANDLER. A person who is responsible for or capable of controlling the operations of a guard dog.

HUMANE SOCIETY INVESTIGATOR. An individual, approved by the governing body, with police authority, whose duty it is to apprehend animals within the jurisdiction of this chapter, whose owners are in violation of this chapter.

IMPOUNDMENT. Taking physical control and custody of an animal.

KENNEL. Any lot or premises or portion thereof where four or more dogs, cats, rabbits, or other household/domesticated animals, six months of age or older, are maintained, boarded, bred or cared for, in return for any compensation, or are kept for the purpose of sale.

NEUTERED DOG/CAT. Any male dog/cat which has undergone surgery to prevent reproduction, whose owner can provide proof of surgery.

OWNER. Any person harboring or keeping an animal and who is the head of the household of the residence of the owner or manager in charge of the establishment or premises at which an animal remains or returns to. An animal shall be deemed harbored if it is fed or sheltered for 20 consecutive days.

(SDCL § 40-12-4)

PET. Any dog, cat, or other species of carnivore kept for domestication or display.

(SDCL § 40-12-4)

RESTRAINT. A leash or chain, not longer than six feet in length, held by a competent person, or enclosing an animal within a vehicle being driven or parked on the streets, or keeping the animal within the property limits of its owner or keeper.

SERVICE ANIMAL. Any dog owned by any state, county or municipal police department or any state or federal law enforcement agency which has been trained to aid law enforcement officers and is actually being used for law enforcement purposes, or any properly trained dog certified by a licensed seeing-eye or hearing-ear dog agency and actually being used by a visually or hearing impaired person.

SHELTER MANAGER. The owner and/or supervisor of the animal shelter, either as an employee of the municipality or a contractor with the municipality. The individual is charged, together with the police department, with the overall enforcement of this chapter, and performs the professional services required in the care, treatment or euthanization of the animals being handled.

SPAYED DOG/CAT. Any female dog/cat which has undergone surgery to prevent conception, whose owners can provide suitable proof of such surgery.

WILD ANIMAL. Any animal(s) other than domestic dogs and cats, which in a wild state are carnivorous or which because of their nature or physical make up are capable of inflicting serious physical harm or death to human beings, including but not limited to: animal(s) which belong to the cat family, snakes which are poisonous or otherwise present a risk of serious physical harm or death to human beings as a result of their nature or physical makeup, and all raccoons, skunks, foxes, bears, coyotes, wolverines, badgers, lions and tigers.

§ 90.003 ANIMAL CONTROL OFFICER.

The animal control officer shall enforce the provisions of this chapter and may issue citations for violations of this chapter or may issue warning tickets requiring correction of a violation.

§ 90.004 LEASH ON DOGS.

(A) No owner or any person harboring or keeping an animal shall permit such animal to run off his or her premises and not under his or her control by a leash.

(B) Any animal which is found off of the premises of the owner, keeper or possessor shall be seized by a law enforcement officer and impounded. The owner, keeper or possessor of the animal, if he or she can be found within the limits of the city,

shall be given notice, either verbally or written, that the animal shall be claimed within 48 hours from the time the notice is received. If the owner, keeper or possessor cannot conveniently be found, notice need not be given. If the owner, keeper or possessor of the animal claims the same within said 48-hour period, said owner keeper or possessor shall reimburse the city for any costs incurred in the keeping of the animal.

(C) If any animal is not so claimed by its owner within said time, the animal shall be forthwith destroyed and the costs of the keeping of the animal assessed to the owner, be immune from any liability claims which may result from the disposal of any animal under this section.

(D) No person shall willfully or negligently maltreat or abuse or neglect in a cruel or inhumane manner, any animal or fowl.

(E) No person shall harbor or keep any stray animals. Animals known to be strayed shall be reported to the law enforcement department immediately, and any stray animals may be destroyed by the city forthwith without notice to any person.

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

(G) When proved that a dog has destroyed, damaged or abused property of another person, the owner, keeper or possessor of such dog shall be strictly liable for any damages which occur.

(H) The keeping of animals or fowls on any lot in the city shall not be on a commercial basis or on a scale reasonably objectionable to the adjacent property owners.

(I) **ANIMAL** shall be defined as follows: any dog, cat, horse, cow, goat, sheep, rabbits, fowl, chickens, guinea fowl, ducks, geese, turkey or other domestic fowl except pigeons, falcons or hawks, in the possession of a state and federal handler within the city.

(Ord. 175, passed - -; Ord. 175, passed 10-2-1989) Penalty, see § 90.999

§ 90.005 DOG KENNELS.

(A) It shall be unlawful for any person to keep or harbor on any lot or premises four or more dogs of at least three months of age without a kennel license. Prior to issuance of such a license the applicant shall provide information and plans describing the kennel, its location, cleaning practices and other pertinent information. Such kennel shall be kept in a clean and sanitary condition, and not permitted to become stagnant, nauseous or a nuisance. It shall be unlawful for any person to keep a dog or dogs in a dog kennel nearer the house of a neighbor within 50 feet.

(B) The application for license shall be made at the City Finance Office with a fee payable of \$10 for each dog exceeding three in number with a maximum fee of \$100.

(Ord. 187, passed 7-8-1991) Penalty, see § 90.999

VICIOUS ANIMALS

§ 90.020 OWNERSHIP OF VICIOUS DOG.

Any person owning or keeping a vicious dog as defined in SDCL §§ 40-34-13 through 40-34-15, has committed a public nuisance and is subject to the provisions of SDCL §§ 21-10-5 and 21-10-9.
(SDCL § 40-34-13)

§ 90.021 VICIOUS DOG DEFINED.

For the purpose of this chapter, a ***VICIOUS DOG*** is:

(A) Any dog, which, when unprovoked, in a vicious or terrorizing manner approaches in apparent attitude of attack, or bites, inflicts injury, assaults or otherwise attacks a human being upon the streets, sidewalks or any public grounds or places; or

(B) Any dog which, on private property, when unprovoked, in a vicious or terrifying manner approaches in apparent attitude of attack, or bite, or inflicts injury, or otherwise attacks a mailman, meter reader, serviceman, journeyman, delivery man or other employed person who is on private property by reason of permission of the owner or occupant of such property or who is on private property by reason a course of dealing with the owner of such private property.

(SDCL § 40-34-14)

(C) Every vicious dog and every dog which has the habit of barking or howling in the night, or one that habitually chases and barks at vehicles disturbing and annoying any person or neighborhood, or one that shall injure or destroy any lawn, garden, shrubbery, flowers or vines, is hereby declared to be a public nuisance, and no person shall keep or harbor any such dog.

§ 90.022 INJURY TO PERSON TRESPASSING; TEASING DOG; ATTEMPTING TO COMMIT CRIME.

No dog may be declared vicious if an injury or damage is sustained by any person who was committing a willful trespass or other tort upon premises occupied by the owner or keeper of the dog, or who was teasing, tormenting, abusing or assaulting the dog or was committing or attempting to commit a crime.

(SDCL § 40-34-15)

§ 90.023 DETERMINATION THAT ANIMAL IS A VICIOUS DOG.

(A) When the animal control officer determines that an animal is vicious, he or she shall notify the owner of such declaration in writing that such animal must be

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registered as a vicious animal within five business days after the receipt of such written notice. The notice shall be served either in person or by mailing such notice by certified mail.

(B) The owner of an animal that has been declared vicious shall make application to the animal control office to register such vicious animal and shall comply with the following:

(1) The owner of the animal shall notify the animal control officer of the following:

- (a) Ownership of the animal;
- (b) Name, address, and telephone number of new owner;
- (c) Address change of the owner or of any change in where the animal is housed;
- (d) A change in the health status of the animal;
- (e) Death of the animal.

(2) If the animal is indoors, the animal shall be under the control of a person over 18 years old.

(3) If the animal is outdoors and attended, the animal shall be muzzled, on a leash no longer than six feet and under the control of a person over 18 years of age.

(4) If the animal is outdoors and unattended, the animal must be locked in an escape-proof kennel approved by the animal control officer.

(5) The minimum standard for fencing, pens, or similar structures are the following:

(a) Fencing materials shall not have opening with a diameter of more than two inches; in the case of a wooden fence, the gaps shall not be more than two inches.

(b) Any gates within in such pen or structure shall be lockable and of such design to prevent the entry of children or the escape of the animal.

(c) The required pen or structure shall have secure sides and a secure top. If the pen or structure has no bottom secured to the side, the sides shall be imbedded into the ground or concrete.

(d) The pen or structure must protect the animal from the elements.

(e) The pen or structure may be required to have double exterior walls to prevent the insertion of fingers, hands or other objects.

(6) The animal shall be permanently identified by injecting an identification microchip into the animal using standard veterinary procedures and practices. The number and the veterinarian who injected the microchip is to be reported to the animal control officer.

(7) A universal sign denoting a vicious animal shall be displayed on the kennel or enclosure and on a place visible from the sidewalk or road adjacent to the property where the animal is kept.

(8) The owner shall carry \$100,000 liability insurance covering the medical and/or veterinary costs resulting from the vicious actions or any other damage the animal may do or cause to be done. Proof of such insurance shall be filed with the animal control officer.

(9) The owner shall present proof of current rabies vaccination and current municipal license of the animal to the animal control officer.

(10) The owner shall present proof to the animal control officer that the animal has been altered to prevent reproduction.

(C) The vicious animal shall be impounded by the animal control officer at the owner's expense until such time as all provisions of division (B) have been complied with.

(D) If the provisions of division (B) have not been met, the animal shall be seized and euthanized in a humane manner.

(E) (1) Any vicious animal found off the premises of its owner, other than provided for in this chapter, shall be seized by the animal control officer or any police officer and impounded. If the animal cannot be captured, it shall be destroyed.

(2) If the animal has been running at large, or bites a person, or bites another animal, that animal control officer or any police officer may order the owner to deliver the animal to the shelter within 24 hours and the owner ordered to appear in court to show cause why the animal shall not be destroyed. If the owner of the animal fails to deliver the animal as ordered, the animal control officer or any police officer shall use such means as necessary to impound the animal.

RABIES CONTROL

§ 90.040 VACCINATION REQUIRED.

(A) Any dog, cat or other animal susceptible to rabies, held as a pet in this municipality, that is six months of age or older, is required to be vaccinated against rabies by a licensed veterinarian or other qualified individual approved by the health authority. All subsequent rabies vaccinations as required by the health authority shall also be given at the appropriate intervals.

(B) Any owner of a dog, cat or other animal susceptible to rabies that is acquired by birth, purchase or adoption shall have that animal vaccinated within one month of such acquisition or when that animal reaches the age of six months.

§ 90.041 REPORT OF RABIES.

Any person who knows of an animal infected with rabies shall report the same to the animal control officer with a description of the animal and the name and address of the owner, if known.

§ 90.042 IMPOUNDMENT OF ANIMAL THAT HAS BITTEN OR ATTACKED.

(A) When an owner of an animal has been notified that animal has bitten or attacked any person, within 24 hours, that owner shall place the animal under the care and control of the animal control officer for a period of not less than ten days.

(B) At the end of the ten-day period, the animal control officer shall examine that confined animal and if cleared, the animal may be reclaimed by the owner. The owner is to pay all expenses incident to the confinement and examination.

(C) If, during confinement, the animal shows signs of rabies or it is known that animal has been exposed to rabies, then that animal may be confined in excess of the ten-day period and for as long a period as is necessary to determine a diagnosis.

(D) Any animal that has bitten or attacked and cannot be captured, may be destroyed in such a way as not to destroy the head so that it may be submitted to a laboratory for a rabies examination.

(E) (1) Within 24 hours of the bite, if an owner of the animal that has bitten or attacked can provide proof of a current rabies vaccination given within 30 days prior to the date of the bite or attack, then he or she may prevent the euthanization of the animal by order of the health authority or a veterinarian from the board of health.

(2) Any animal that has bitten any person may be euthanized by order or the health authority, if in its opinion and based on sound medical judgements, a greater risk is present if the animal is not euthanized. The health authority shall take into consideration the following factors:

- (a) History of the animal, including its exposure to rabies;
- (b) Vaccination record of the animal;
- (c) Health of animal;
- (d) Nature, seriousness and location of bite;
- (e) Circumstances surrounding the bite, including whether or not the bitten animal provoked it;
- (f) Tolerance of person bitten to vaccination treatments.

§ 90.043 CONFINEMENT OF PET AFTER ATTACK UPON PERSON.

The department may serve written notice upon the owner of any dog or cat which has attacked or bitten a person to confine the animal at the owner's expense upon his premises or at a municipal pound or other place designated in the notice for a period of at least ten days after the animal has attacked or bitten any person. The department may examine the animal at any time within the ten-day period of confinement to determine whether such animal shows symptoms of rabies. In the case of any pet other than a dog or cat, which has attacked or bitten a person, the department may serve written notice upon the owner of such animal that the owner shall have the animal euthanized immediately and submit the brain to an approved laboratory for rabies examination.

(SDCL § 40-12-5)

§ 90.044 CONFINEMENT OF PET BITTEN BY ANIMAL SUSPECTED OF HAVING RABIES.

The department may serve written notice upon the owner of a dog or cat known to have been bitten by an animal known or suspected of being affected by rabies, requiring the owner to confine such dog or cat for a period of not less than six months. However, if such dog or cat had been properly treated with an antirabic vaccine, confinement shall be for a period of not less than three months. In the case of any pet other than a dog or cat, the department may serve written notice upon the owner of such animal that the owner shall have the animal euthanized immediately. (SDCL § 40-12-6)

§ 90.045 DESTRUCTION OF ANIMAL REQUIRED.

If the animal control officer determines that rabies exists in any animal, the board may kill such animal and any animal there is reason to believe an animal or person has been bitten by any animal affected with rabies.

LICENSING

§ 90.060 LICENSING OF DOGS AND CATS REQUIRED.

Each owner of a dog or cat that is the age of six months or over, within 30 days of the acquisition of the animal or within 30 days of the animal turning that age, shall have that animal licensed. Proof of rabies immunization and the proper fee shall be required at the time application for such licenses is made.

§ 90.061 APPLICATION FOR LICENSE CERTIFICATE AND TAG.

(A) Every owner of a dog or cat residing within the municipality shall submit an application for a license for each animal owned that is six months of age or older. A renewal application shall be submitted within one year of the issuance of the initial application and annually thereafter.

(B) Upon proper receipt of the application, a certificate and tag shall be issued to the owner of the animal. The certificate shall be in possession of the owner and the license shall be affixed to the licenses animal at all times. If there is a change of ownership, loss or death of the animal, the owner shall notify animal control of the event within ten days.

MISCELLANEOUS REGULATIONS

§ 90.075 KEEPING OF ANIMALS.

(A) The keeping of animals shall not be on such a scale so as to create a nuisance. This prohibition includes the domestic fowl of the order Galliformes and Gallinaceous (fowl-like birds), and the order Anseriformes (water fowl).

(B) Nothing in this section shall prohibit the keeping of the domestic cat (*Felis catus*), the European polecat (*Mustela putorius furo*) otherwise known as the ferret, or the domestic dog (*Canis familiaris*), as long as the licensing or permit procedures and all other provisions of this chapter are followed.

(C) It is considered a nuisance and shall be unlawful for any person to keep and maintain (other than the care and treatment of injured or abandoned birds and animals by people licensed for that purpose) or sell native fur bearers, bears, mountain lions, bobcats, lynx, panthers, endangered species, exotic cats or venomous snakes.

§ 90.076 DISTURBING THE PEACE.

(A) The owner or custodian of an animal shall not allow the animal to create a disturbance by making loud noises at any time of the night or day.

(B) Any animal control officer or police officer may remove and impound any animal which is disturbing the peace when the owner of animal cannot be located. A notice advising the owner of the impoundment shall be left on the premises.

(C) Any person having custody or control of any female dog or cat in heat shall be required to keep such dog or cat confined in a building, secure enclosure, veterinary hospital, or boarding kennel so that it cannot attract or come into contact with another animal on public or private property except for controlled breeding purposes.

§ 90.077 STRAY, ABANDONED OR UNKEPT ANIMALS.

No person shall harbor or keep any stray animals. Animals known to be strays shall be immediately reported to the animal control officer.

§ 90.078 NUMBER OF PETS LIMITED.

It is unlawful for any person to have or to keep more than four domestic pets over the age of six months, except birds and fish on any lot or premises in the municipality, unless such person residing on or in the lot or premises has a valid kennel license issued by the municipality. The humane society, veterinarian offices, and retail pet stores are exempt from the provisions of this section.

§ 90.079 RESPONSIBILITY.

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

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

(C) Anyone walking an animal on 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. Animals used in parades or involved in law enforcement are exempt from this subsection.

§ 90.080 RUNNING AT LARGE PROHIBITED.

It shall be unlawful for any person to have any animal which is owned, kept, harbored, or allowed to be habitually in or upon the premises occupied by him or her under his or her control to be at large and to go in or upon the private premises of others or upon public property.

§ 90.081 NEGLECT, ABANDONMENT, OR MISTREATMENT OF ANIMAL.

No person owning or responsible for the care of an animal may neglect, abandon, or mistreat the animal.

(SDCL § 40-1-2.3) Penalty, see § 90.999

§ 90.082 CRUELTY TO ANIMALS.

No person may subject an animal to cruelty.

(SDCL § 40-1-2.4) Penalty, see § 90.999

§ 90.083 UNATTENDED ANIMAL.

(A) A person may not leave any animal unattended in a standing or parked motor vehicle in a manner that endangers the animal's health or safety.

(B) A violation of this section is a class 2 misdemeanor carrying a \$200 fine.

(C) A person found to be in violation of this section shall bear the costs and fees associated with any required care, treatment, impounding, or kenneling of the animal.

Penalty, see § 90.999

IMPOUNDMENT

§ 90.095 AUTHORITY TO IMPOUND.

The animal control officer or police officers have the authority to impound any animal in violation of this chapter.

§ 90.096 NOTICE TO OWNER.

The owner of any animal that has been impounded shall be notified within 24 hours of the impoundment of his or her animal, provided that name and address of the owner can be reasonably ascertained.

§ 90.097 REDEMPTION OF ANIMAL BY PERSON OTHER THAN OWNER.

If the owner of any animal that has been impounded fails to redeem such animal, after the impoundment period, any other person may redeem the animal, upon complying with any requirements of this chapter, may redeem the animal and become the lawful owner.

§ 90.098 DISPOSITION OF UNREDEEMED ANIMALS.

(A) If an impounded animal is wearing a license or other means of identification, the animal shall be kept at the shelter for a period of five days, excluding Sundays and holidays.

(B) If an animal is not wearing identification, it shall be confined for a period of three days, excluding Sundays and holidays. The animal control officer may dispose of the animal impounded in any humane manner.

§ 90.099 COSTS.

(A) An animal held or impounded shall be released to its owner or other persons only after payment of daily boarding costs, any veterinarian fees and impoundment fees have been paid in full.

(B) Boarding costs, veterinarian fees and impoundment fees are in addition to any fines assessed for violation of this chapter.

ADMINISTRATION AND ENFORCEMENT

§ 90.115 ENFORCEMENT; AUTHORITY.

(A) The provisions of this chapter shall be enforced by the police department or the animal control officer.

(B) The animal control officer of police department may issue citations for violations of any section of this title or may issue warning tickets requiring correction of a violation.

§ 90.116 INTERFERENCE WITH ENFORCEMENT.

No person may hinder, delay or obstruct any police officer or the animal control officer in the performance of any duty under this chapter or seek to release any animal in the custody of the animal control officer, except as provided herein.

§ 90.117 FAILURE TO COMPLY WITH A WARNING TICKET.

It is unlawful for any person to fail or refuse to comply with the provisions of requirements of a warning ticket lawfully issued under this chapter.

§ 90.118 RECORD KEEPING REQUIREMENTS.

It shall be the duty of the shelter manager and the animal control officer to keep, or cause to be kept, accurate and detailed records of the licensing, finding, impoundment and disposition of all animals and owners coming into his or her custody. It shall be the duty of the animal control officer and shelter manager to keep, or cause to be kept, accurate and detailed records of all bite cases provided to him or her and his or her investigation of the same. It shall be the duty of the shelter manager to keep, or cause to be kept, accurate and detailed records of all moneys belonging to the municipality.

§ 90.119 PAYMENT OF FEES AND CHARGES; STOPPING PAYMENT OR ISSUING BAD CHECK PROHIBITED.

No person may avoid payment of licenses or impoundment fees prescribed by this chapter or charges for veterinarian services or rabies observation costs incurred under this chapter, by stopping payment on any check or issuing an insufficient funds check.

§ 90.999 PENALTY.

(A) Any person, firm or corporation violating any provision of this chapter shall be guilty of a second degree misdemeanor and punished by a fine of not more than \$500 or by confinement not to exceed 30 days in the county jail, or both fine and imprisonment.

(B) Any person found guilty of a violation of any provision of § 90.004 shall be subject to a fine not to exceed \$100, or by detention not to exceed 30 days, or by both such fine and detention.

(C) A violation of § 90.005 shall be punishable by a fine of not to exceed \$100 or by imprisonment in jail of not to exceed 30 days or by both such fine and imprisonment.

(Ord. 175, passed 10-2-1989; Ord. 187, passed 7-8-1991)

Statutory reference:

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

CHAPTER 91: FAIR HOUSING

Section

91.01	Purpose; policy
91.02	Construction
91.03	Definitions
91.04	Board
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91.06	Investigation
91.07	Findings
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§ 91.01 PURPOSE; POLICY.

It is the policy of the city, for the protection of the public safety, for the health, morals, safety and welfare of the persons in and residing in the city, and for the maintenance and promotion of commerce, industry and good government in the city to secure all persons living and/or working or desiring to live and/or work in the city fair opportunity to purchase, lease, rent or occupy real estate without discrimination based on race, color, religion, creed, age marital status, physical limitations, source of income, national origin or ancestry.

(Ord. passed - -)

§ 91.02 CONSTRUCTION.

This chapter shall be construed according to the fair import of its terms and shall be liberally construed to further the purpose and policy stated in § 91.01 and the special purposes of the particular provision involved.

(Ord. passed - -)

§ 91.03 DEFINITIONS.

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

DISCRIMINATORY OR UNFAIR HOUSING PRACTICE.

(1) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of sex, race, creed, religion, ancestry or national origin; age, marital status, physical limitations or source of income;

(2) To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of sex, race, color, creed, religion, ancestry or nation origin; age, marital status, physical limitations or source of income;

(3) To make, print or publish, or cause to be made, or published, any notice, statement or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on sex, race, color, creed, religion, ancestry or national origin; age, marital status, physical limitations or source of income or an intention to make any such preference, limitation or discrimination;

(4) To represent to any person because of sex, race, color, creed, religion, ancestry or nation origin; age, marital status, physical limitation or source of income that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available;

(5) To induce or attempt to induce for profit, any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular sex, race, color/creed, religion, ancestry or nation origin, age, marital status, physical limitations or source of income; and

(6) For any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, construction, improving, repairing or maintaining a dwelling, or to discriminate against the person in the fixing of the amount, interest rate, duration or other terms or condition of such loan or other financial assistance, because of sex, race, color, creed, religion, ancestry, nation origin, age, marital status, physical limitations or source of income.

DWELLING. Any building, structure or portion thereof which is occupied, or designed or intended for occupancy as a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure or portion thereof.

FAMILY. Includes a single individual.

MARITAL STATUS. The state of being married, unmarried, divorce or widowed.

NATIONAL ORIGIN. Includes the national origin of an ancestor.

PERSON. Includes one or more individuals, corporation, partnerships, associations, labor organization, legal representations, mutual companies, joint-stock companies, trusts, unincorporated organization, trustees, trustees in bankruptcy, receivers and fiduciaries.

PHYSICAL LIMITATION. A limitation of physical capabilities unrelated to one's ability to safely perform the work involved in jobs or positions available to such person for hire or promotion or a limitation of physical capabilities unrelated to one's ability to acquire, rent and maintain property. **PHYSICAL LIMITATION** includes, but is not limited to, blindness or partial sightedness, deafness or hearing impairment, muteness, partial or total absence of physical member, speech impairment and motor impairment.

TO RENT. Includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.
(Ord. passed - -)

§ 91.04 BOARD.

To effectuate the policy of the city set forth, there is created a Fair Housing Board which may act to disseminate information, to cooperate with groups or persons interested in similar objectives, to conduct public meetings and hearings, to mitigate and conciliate in instances of alleged discrimination, and to initiate and hear complaints alleging discrimination with such investigation and inquiry as may reasonably appear necessary.

(A) The membership of the Board shall be composed of the members of the governing body of which the members' term on the board shall coincide with their term of public office.

(B) In the hearing of verified complaints, the Board will have the power and authority to subpoena and examine witnesses, to administer oaths, take sworn testimony, and require the production for examination of relevant books or papers and to take such affirmative action as in the judgment of the Board will effectuate its purposes.

(Ord. passed - -)

§ 91.05 COMPLAINTS.

(A) *Procedure for filing complaints.* Any person claiming to be aggrieved by a discriminatory or unfair housing practice may make, sign and file with the Board a verified, written complaint which shall state the name and address of the person or agency alleged to have committed the discriminatory or unfair housing practice of which complained, shall set forth the facts upon which the complaint is based, and shall contain such other information as may be required by the Council.

(B) *Time for filing complaint.* Any complaint filed under this chapter shall be so filed within six months after the alleged discriminatory or unfair housing practice has occurred.

(Ord. passed - -)

§ 91.06 INVESTIGATION.

(A) *Conference or conciliation to eliminate unfair practice.* After the filing of a verified complaint, a true copy thereof shall be served by certified mail to the person against whom the complaint is filed. A member of the Fair Housing Board or a duly authorized agent shall then make a prompt investigation thereof and if such investigating official determines that probable cause exists to support the allegations of the complaint, the investigating official shall immediately endeavor to eliminate such discriminatory or unfair housing practice by conference or conciliation.

(B) *Notice to respondent to answer complaint; time for answer.* In case of failure satisfactorily to settle a complaint by conference or conciliation, or in advance thereof if in the opinion of the investigating official circumstances so warrant, the officials may issue and cause to be served a written notice, together with a copy of such complaint, as the same may have been amended, requiring the person, hereafter referred to as respondent, to answer the charges of such complaint in writing within ten days after the date of such notice or within such extended time as the investigating official may allow.

(C) *Notice to answer complaint after investigating official's report; time for hearing.* When the investigating official is satisfied that further endeavor to settle a complaint by conference or conciliation will be futile, the official shall report the same to the Board. If the Board determines that the circumstances warrant, it shall issue and cause to be served a written notice requiring the respondent to answer the charges of such complaint at a hearing to be set within a reasonable period of time before the Board, and at a time and place to be specified in such notice.

(D) *Respondent's answer and appearing at hearing.* The respondent may file a written verified answer to the complaint, and may appear at the hearing in person, with or without counsel, and submit testimony.

(Ord. passed - -)

§ 91.07 FINDINGS.

(A) *Finding of discriminatory or unfair practice; affirmative action required.* If, upon taking into consideration all the evidence at a hearing, the Board shall find that the respondent has engaged in or is engaging in, any discriminatory or unfair housing practice as defined above, the Board shall state its findings of fact and recommendations to the parties and take such affirmative action as in the judgment of the Board will effectuate its purpose.

(B) *Finding of no discriminatory or unfair practice; dismissal of complaint.* If, upon taking into consideration all of the evidence at the hearing, the Board finds that the respondent has not engaged in any such discriminatory or unfair housing practice, the

Board shall state its findings of fact and shall issue and cause to be served an order on the complainant and the respondent dismissing the complaint.
(Ord. passed - -)

§ 91.08 APPEAL.

All decisions of the Board shall be subject to appeal under the same conditions and in the manner provided under SDCL §§ 1-26-30 through 1-26-37.
(Ord. passed - -)

§ 91.09 QUORUM.

All official actions of the Board shall be concurred in by a quorum of the total membership of the Board.
(Ord. passed - -)

§ 91.10 RULES.

The Board shall establish rules to govern expedite, and effectuate the procedure established by SDCL Chapter 20-13.
(Ord. passed - -)

§ 91.11 MINUTES.

The Board shall keep the minutes of its proceedings, showing the vote of each member or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be filed in the office of the Board and shall be public record.
(Ord. passed - -)

CHAPTER 92: NUISANCES

Section

General Provisions

- 92.01 Nuisance
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Grass, Vegetation, Weeds

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Junked Motor Vehicles

- 92.35 Definitions
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GENERAL PROVISIONS

§ 92.01 NUISANCE.

For the purpose of this subchapter, the word ***NUISANCE*** is hereby defined as any person doing an unlawful act, or omitting to perform a duty, or suffering or permitting any condition or thing to be or exist, which act, omission, condition or thing either:

- (A) Injures or endangers the comfort, repose, health or safety of others;
 - (B) Offends decency;
 - (C) Is offensive to the senses;
 - (D) Unlawfully interferes with, obstructs or tends to obstruct or renders dangerous for passage any public or private street, highway, sidewalk, stream, ditch or drainage;
 - (E) In any way renders other persons insecure in life or the use of property; or
 - (F) Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others.
- (Ord. 236, passed 5-3-2010) Penalty, see § 92.99

§ 92.02 ILLUSTRATIVE ENUMERATION.

The maintaining, using, placing, depositing, leaving or permitting to be or remain on any public or private property of any of the following items, conditions or actions are hereby declared to be and constitute a nuisance; provided, however, this enumeration shall not be deemed or construed to be conclusive, limiting or restrictive:

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(A) Noxious weeds and other rank vegetation;

(B) Abandoned or junk property. Any junk or equipment of any type, except in an authorized junk yard, or any accumulations of other unsightly trash or junk which would constitute a health hazard, a rodent harborage, a breeding area for insects or rodents, a dangerous place for children to play in and around or which tends to be unsightly and which does or tends to lower the value of adjacent real property because of unsightliness. Unsightly trash or junk includes property which is deteriorated, wrecked or derelict property to unusable condition, having no value other than nominal scrap or junk value, if any, and which has been left unprotected outside of a permanent structure from the elements, and shall include without being restricted, deteriorated, wrecked, inoperative or partially dismantled trailers, boats, motors, snowmobiles, lawn mowers, motorcycles, refrigerators and other household appliances, furniture, household goods and furnishings, scrap metals or lumber or other similar articles in such condition;

(C) Garbage and refuse. Garbage, rubbish, waste material improperly disposed of by discarding, abandoning, allowing to accumulate, scattering or positioning outside an approved container. Depositing, maintaining or permitting to be maintained or to accumulate upon any public or private property any animal or vegetable matter which attends the processing, preparation, transportation, cooking, eating, sale or storage of meat, fish, vegetables, fruit and all other food or food products found within the city which are likely to cause or transmit disease or which may be a hazard to health; or

(D) Abandonment of vehicles.

(1) For the purpose of this division (D), 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.

(2) No person shall abandon any vehicle within this city and no person shall 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.

(3) No person shall leave any partially dismantled, non-operating, wrecked or junked vehicle on any street or highway within the city.

(4) 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 longer time than ten days; except that this section shall not apply with regard to a vehicle in an enclosed building, or to a vehicle on the premises of

a business enterprise operating 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. (Ord. 236, passed 5-3-2010) Penalty, see § 92.99

§ 92.03 ENFORCEMENT.

(A) If a nuisance exists, a notice of violation shall be issued to the offender, to the concerned property owner and to the person in possession of the property whereon the offense was committed, directing abatement.

(B) Notice may be served upon the offender, the concerned property owner and the person in possession of the property whereon the offense was committed by personal service, by registered mail, or by posting in a conspicuous place within the city limits and by publication for a period of one week in a legal newspaper of the county.

(C) Within seven days after completion of the notice herein above mentioned in division (B) above, an appeal may be filed by the offender, the concerned property owner or by the person in possession of the property whereon the offense was committed with the City Council. Within 15 days after filing, appeal shall be heard before the City Council. All persons who fail to protest shall be deemed to have waived all objections.

(D) Abatement shall be accomplished within seven days after notification of the decision of the City Council, unless the offender, concerned property owner or the person in possession of the property whereon the offense was committed can show cause why more time is needed. Notification of the City Council shall be mailed by registered or certified mail.

(E) If the abatement is not completed within the time herein above mentioned in division (D) above, the City shall abate the nuisance and file an account with the City Council, which account shall specify the sum expended in abating said nuisance.

(F) At least seven days after the filing of the account herein above mentioned in division (E) above, the City Council shall hold a hearing. Notice announcing the time of the City Council meeting shall be mailed by registered or certified mail to the concerned property owner, to the person in possession and to the offender at least seven days prior to said meeting.

(G) The City Council shall hear the matter and if the account is accepted, the amount thereof shall become a lien upon the property whereupon the offense was committed.

(Ord. 236, passed 5-3-2010) Penalty, see § 92.99

GRASS, VEGETATION, WEEDS

§ 92.15 WEEDS; DUTY OF OWNER.

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 on such lot, place or area or upon a 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.

(Ord. 212, passed 7-10-2000) Penalty, see § 92.99

§ 92.16 NOTICE TO DESTROY.

A law enforcement officer or health officer is hereby authorized and empowers to notify in writing the owner of any such lot, place or area within the city or the agent such owner or the occupant of such premises, to cut, destroy or remove any such weed grass or deleterious or unhealthful growths or other noxious matter found growing, lying or located on such property or upon the sidewalk abutting same. Such notice shall be certified mail addressed to said owner, agent or occupant at his or her known address.

(Ord. 212, passed 7-10-2000)

§ 92.17 RIGHT OF HEARING FROM LAW ENFORCEMENT'S OR HEALTH OFFICER'S DETERMINATION.

(A) The owner or any person affected shall have the right to a hearing before the City Council for investigation and review of the law enforcement officer's or health officer's determination. Such right to a hearing must be exercised by the filing of a request for hearing in writing with the finance officer at City Hall within five days after the date posting, publishing, serving or mailing of notice to cut, destroy or remove as provided § 92.16. The request for a hearing shall state the objections to the law enforcement officer's or health officer's determination and shall be signed by the party requesting the hearing. Upon receipt of the request for a hearing, the finance officer shall present the matter to the City Council at its next regular or special meeting. The City Council shall schedule a hearing on the matter at which time affected parties shall have right to appear, be represented by Council, testify and present evidence in their case.

(B) The hearing shall be scheduled not less than five days from the date the request is presented to the City Council at a duly called meeting. The city shall at the time of the hearing, hear and decide, whether the effected property does contain weeds, grass or deleterious or unhealthful growths, or other noxious matter such that it constitutes a nuisance.

(Ord. 212, passed 7-10-2000) Penalty, see § 92.99

§ 92.18 ACTION UPON NONCOMPLIANCE.

Upon the failure to file a written request for a hearing within five days as herein above provided and upon failure, neglect or refusal of any owner, agent or occupant so notified to comply with said notice within 15 days after the mailing thereof, the law enforcement officer or health officer is hereby authorized and empowered to provide for the cutting, destroying or removal of such weeds, grass or deleterious unhealthful growths or other noxious matter and to defray the cost of the destruction thereof by special assessment against the property.

(Ord. 212, passed 7-10-2000) Penalty, see § 92.99

§ 92.19 WEED REMOVAL COSTS.

If the owner or occupier of the land fails to cut the weeds, as provided for in the preceding section, the city shall cut the weeds. The cost to the landowner shall be \$75 for the first hour of cutting and \$25 for each additional hour of cutting, with a \$75 minimum charge.

(Ord. 212, passed 7-10-2000)

§ 92.20 COST ASSESSED.

The law enforcement officer or health officer shall cause an account to be kept against each lot for the destruction of noxious weeds and mowed grass upon said lot as herein provided and shall certify the same to the City Finance Officer upon the completion of the work in destroying such weeds and abating said nuisance and the City Finance Officer shall thereupon certify said account showing the account, the description of the property and the owner thereof to the County Auditor who shall thereupon add such assessment as a special assessment together with the regular assessment to the County Treasurer to be collected as a municipal taxes for general purposes. Said assessment shall be subject to review and equalization the same as assessments or taxes for general purposes.

(Ord. 212, passed 7-10-2000) Penalty, see § 92.99

§ 92.21 RECOVERY BY CITY.

In lieu of spreading the cost of the destruction of such weeds and grass and other deleterious matter against said property in the discretion of the City Council, said amount may be recovered in a civil action against the owner or occupant of such property.

(Ord. 212, passed 7-10-2000) Penalty, see § 92.99

§ 92.22 NOXIOUS PLANT AND WEEDS DEFINED.

The following plants and weeds shall be deemed to be noxious, dangerous and unhealthful vegetation to-wit: all species of rag weed; all species of cockle burrs; all species of tumbleweeds; all species of thistles; dandelions; plantains; sweet clover; morning glory; black mustard; and pig wee.

(Ord. 212, passed 7-10-2000) Penalty, see § 92.99

§ 92.23 MOWING OF GRASS AND VEGETATION.

(A) Each property owner of the city is responsible for the mowing of grass and vegetation on the owner's property.

(B) Any property within the city with grass and vegetation six (6) inches tall or greater shall be considered overgrown and shall be mowed by the city and the costs of such mowing, *as established by resolution*, shall be assessed against the individual property owner and the said property, per occurrence.

(C) Any property owner within the city with grass and vegetation to be considered overgrown shall be notified via certified letter and overgrown vegetation be taken care of within forty-eight (48) hours of letter delivery. After 48 hours the city will take care of overgrown vegetation and cost of mowing, *as established by resolution*, and cost of the certified letter be assessed against the individual property owner and the said property.

(Ord. 173, passed 8-7-1989, Ord. amended 5-4-26) Penalty, see § 92.99

JUNKED MOTOR VEHICLES

§ 92.35 DEFINITIONS.

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

ABANDONED MOTOR VEHICLE. Any motor vehicle, as defined in this section, which is left unattended on any public street, alley, public place or parking lot within the city for a longer period than 24 hours without notifying the Chief of Police and making arrangements for the parking of such motor vehicle.

ANTIQUÉ/COLLECTIBLE VEHICLE. Any motor vehicle having special value because of its age or characteristics and does not meet the junked motor vehicle definition.

CITY. The City of Oldham.

INOPERABLE VEHICLE. Any motor vehicle, as herein defined, which has not physically moved 25 feet in a two-month period or which is not in operating condition due to damage or removal or inoperability of one or more tires and wheels, damage or removal or inoperability of the engine or other essential parts required for the operation

of the vehicle, or which does not have lawfully affixed thereto a valid state license plate or which constitutes an immediate health, safety, fire or traffic hazard.

JUNKED MOTOR VEHICLE. Any motor vehicle which does not have lawfully affixed thereto a valid slats license plate or plates, or the condition of which is wrecked, dismantled, partially dismantled, inoperable or discarded.

MOTOR VEHICLE. Any vehicle which is designed to travel along, or on the ground or water and shall include, but not be limited to, automobiles, buses, motorbikes, motorcycles, motor scooters, trucks, tractors, go-carts, golf carts, campers, trailers, boats and farm equipment.

PERSON. Any person, firm, partnership, association, corporation, company or organization of any kind.

PRIVATE PROPERTY. Any real property within the city, which is privately owned, and which is not public property as defined in this section.

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

(Ord. 219, passed 10-7-2002)

§ 92.36 STORING AND THE LIKE JUNKED VEHICLES; EXCEPTIONS.

(A) The presence of an abandoned, wrecked, dismantled, inoperable, junked or partially dismantled motor vehicle or parts thereof on private or public property is a public nuisance, which may be abated as such in accordance with the provisions of this chapter. This section shall not apply to any motor vehicle fully enclosed within a building on private property or to any motor vehicle held in connection with a business enterprise, lawfully licensed by the city and properly operated in the appropriate business zone, pursuant to the zoning laws of the city.

(B) A motor vehicle in operable condition, although not legally licensed, specifically adopted or designed for operation on drag strips or raceways, may be kept on private property if kept in a fully enclosed structure during non-racing seasons.

(C) Storing, parking or leaving dismantled or other such motor vehicles on public property prohibited. No person shall park, store, leave or permit the parking, storing or leaving of any abandoned, wrecked, dismantled, inoperable, junked or partially motor vehicle of any kind, whether attended or not upon any public property or right-of-way within the city.

(Ord. 219, passed 10-7-2002) Penalty, see § 92.99

§ 92.37 ENFORCEMENT.

(A) If a nuisance exists, a notice of violation shall be issued to the offender, to the concerned property owner and to the person in possession of the property whereon the offense was committed, directing abatement.

(B) Notice may be served upon the offender, the concerned property owner and the person in possession of the property whereon the offense was committed by personal service, by registered mail, or by posting notice in a conspicuous place within the city limits, and by publication for a period of one week in the legal newspaper of the city.

(C) Within seven days after completion of the notice herein above mentioned in division (B) above, an appeal may be filed by the offender, the concerned property owner or the person in possession of the property whereon the offense was committed with the City Council. Within 15 days after filing, appeal shall be heard before the City Council. All persons who fail to protest shall be deemed to have waived all objections.

(D) Abatement shall be accomplished within seven days after notification of the decision of the City Council, unless the offender, concerned property owner or the person in possession of the property whereon the offense was committed can show cause why more time is needed. Notification of the City Council shall be mailed by registered or certified mail.

(E) If the abatement is not completed within the time mentioned in division (D) above, the city shall abate the nuisance and file an account with the City Council, which account shall specify the sum expended in abating said nuisance.

(F) At least seven days after filing of the account herein above mentioned in division (C) above, the City Council shall hold a hearing. Notice announcing the time of the City Council meeting shall be mailed by registered or certified mail to the concerned property owner, to the person in possession and to the offender at least seven days prior to said hearing.

(G) The City Council shall hear the matter and if the account is accepted, the amount thereof shall become a lien upon the property whereon the offense was committed.

(Ord. 219, passed 10-7-2002) Penalty, see § 92.99

§ 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.

(B) Violation of §§ 92.01 through 92.04 is punishable by a fine not to exceed \$500 or by imprisonment not to exceed 30 days, or by both such fine and imprisonment. Each day the violation exists shall constitute a separate and distinct offense.

(C) Violation of § 92.23 shall be punishable by a fine of not to exceed \$100 or by confinement in jail of not to exceed 30 days or by both such fine and imprisonment.

(D) Violation of §§ 92.35 through 92.37 is a misdemeanor punishable by a fine not to exceed \$200 or by imprisonment not to exceed 30 days, or by both such fine and imprisonment. Each violation shall be a separate and distinct offense.

(Ord. 173, passed 8-7-1989; Ord. 219, passed 10-7-2002; Ord. 236, passed 5-3-2010)

CHAPTER 93: FIREWORKS

Oldham, SD Code of Ordinances

Section

93.01	Restrictions on sale and use
93.02	Sale and use permitted
93.03	Public displays
93.99	Penalty

§ 93.01 RESTRICTIONS ON SALE AND USE.

It shall be unlawful for any person or persons, or corporation to have or offer for sale, or sell or shoot, set fire to, or cause to burn or explode within the city, or within one mile of the corporate limits thereof, firecrackers, fireworks or pyrotechnics of any kind, character or description except as hereinafter provided.

(Ord. passed - -) Penalty, see § 93.99

§ 93.02 SALE AND USE PERMITTED.

The City Council may, by resolution, suspend the operation of § 93.01, and permit the sale or use of firecrackers, fireworks or other pyrotechnics within the city at such times, and in such places, and subject to such conditions, as it shall deem proper, the provisions of § 93.01 notwithstanding.

(Ord. passed - -) Penalty, see § 93.99

§ 93.03 PUBLIC DISPLAYS.

Nothing in this chapter prohibits the use of a public display of fireworks provided any individual, firm, partnership or corporation, prior to making such public display of fireworks shall first secure a written permit so to do from the City Council.

(Ord. passed - -)

§ 93.99 PENALTY.

Any person, firm or corporation violating any of the provisions of this chapter shall upon conviction thereof by punished by a fine of not to exceed \$100 or imprisonment not to exceed 30-day confinement, or both such fine and confinement.

(Ord. passed - -)

CHAPTER 94: OPEN BURNING

Section

- 94.01 Burning
- 94.02 Definitions

§ 94.01 BURNING.

(A) The burning of any material is prohibited within the city unless authorized by chapter.

(B) The burning of refuse and rubbish as defined in § 94.02 is specifically prohibited.

(C) Controlled, enclosed incinerators, for the burning of waste materials that are approved by the State Pollution Control Agency are hereby authorized provided approval is in writing and a copy thereof is on file with the city.

(D) Recreational fires, as defined in § 94.02, are permitted within the city, provided the following requirements are met:

(1) If the recreational fire is contained within a structure, equipment or apparatus approved by underwriter's laboratory as safe for the conduction of said activity or by the Fire Chief; and

(2) Such recreational fire may be within ten feet of a structure or upon a deck or patio.

(Ord. 254, passed 7-9-2012)

§ 94.02 DEFINITIONS.

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

RECREATIONAL FIRE. All other than the fire described as a rubbish fire or is a rubbish fire including but not limited to fire places, grills, fire pits, other burning apparatus approved by underwriter's laboratory and fueled by wood, wood pellets, grain, newspaper, natural or propane gas or any other combustible material used in the preparation of food or enjoyment of an open flame mat has a screen or mesh sufficient to stop the spread of any ash or materials from leaving the confines of the apparatus.

REFUSE. All bulky items, construction and demolition debris, garbage, household waste, rubbish, rubble, sludge, trees, waste tires, yard waste.

RUBBISH. All combustible and organic materials such as papers, rags, originating from the house is hereby specifically prohibited.

(Ord. 254, passed 7-9-2012)

CHAPTER 95: STREETS AND SIDEWALKS

Section

- 95.01 Sidewalk construction

§ 95.01 SIDEWALK CONSTRUCTION.

(A) All sidewalks constructed on Main Street in the city, and abutting on the property hereinafter mentioned and described and within the limits herein specified, shall be of the kind and character known as cement sidewalks and shall be constructed in the manner and of the material as required by and specified in this section; that the district or territory within which such cement sidewalks are required to be constructed, and the lots, blocks and premises which will abut on the same are described as follows: to-wit: upon and along the south side of Block Numbered Four of the recorded plat of the aforesaid city, and in front of and abutting on Lots Numbered 7-8-9-10-11-12-13-14-15-16-17-18; upon and along the south side of Block Numbered Five of the recorded plat of the city, and in front of and abutting on Lots Numbered 7-8-9-10-11-12-13-14-15-16-17-18, upon and along the south side of Block Numbered Six of the recorded plat of the aforesaid city, and in front of and abutting on Lots Numbered 3-4-5-6-7; upon and along the north side of Block Numbered Seven of the recorded plat of the aforesaid city, and in front of and abutting on Lots Numbered 1-2-3-4-5-6; upon and along the north side of Block Numbered Eight of the recorded plat of the aforesaid city, and in front of and abutting on Lots Numbered 1-2-3-4-5-6-7-8-9-10-11-12; upon and along the north side of Block Numbered Nine and the recorded plat of the aforesaid city, and in front of and abutting on Lots Numbered 1-2-3-4-5-6-7-8-9-10-11-12.

(B) Whenever the owner of any of the lots or premises hereinbefore mentioned and described shall desire to replace the sidewalk now in use in front of his or her premises by a new one, or whenever the City Council shall by ordinance or resolution, the new sidewalk so built in the place of the wooden sidewalk now in use, shall be of the kind and character known as cement sidewalk and shall be constructed by the property holder, wholly at his or her own cost and expense and in the manner and of the materials specified in and provided by this section.

(C) Such cement sidewalk herein required to be constructed shall be placed on the established grade of said street, shall be seven and one-half feet wide with six inches in addition covered by curb, making a total width of eight feet, and shall be composed and constructed in the following manner, to-wit: there shall first be placed a solid foundation of either coarse gravel, cinders from burnt soft coal, pounded stone or some other like substance which shall be acceptable to both the property holder and the Council of said city, well tamped and at least six inches in thickness. On this shall be placed concrete or grouting composed of gravel and cement well watered and thoroughly-mixed, and in the proportion of one part cement and five part gravel, which shall be thoroughly tamped down, and after being so tamped, shall be at least four inches in thickness. The same shall then be covered by a mixture of cement and fine sharp lake sand thoroughly mixed in the proportion of three parts cement and five parts sand and shall be one and one-half inches in thickness. Such walk, when so constructed, shall slope two inches from building line to curb, so as to allow all water to flow into the curb. The outer edge of the curb or such sidewalk shall be set into the ground at least one foot and shall be constructed wholly of concrete, composed of cement and fine gravel or coarse sand, and shall not extend above the surface of the outer edge of the walk, but shall be on the same slope with it, so as to allow the flow of

water over it into the gutter, and the outer side and top of the curb shall be covered with a substantial coating of cement and fine sand.

(Ord. 15, passed 5-22-1905) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS

Chapter

- 110. LICENSES
- 111. ALCOHOLIC BEVERAGES
- 112. PEDDLERS AND SOLICITORS

CHAPTER 110: LICENSES

Section

- 110.01 License required, and how obtained
- 110.02 Auctioneers, auction sales
- 110.03 Circuses, theaters, theater buildings and the like
- 110.04 Shooting galleries, fortune tellers, fakirs and the like
- 110.05 Merry-go-rounds and bowling alleys
- 110.06 Term of license
- 110.07 Billiard and pool tables
- 110.08 Obstructing view

- 110.99 Penalty

§ 110.01 LICENSE REQUIRED, AND HOW OBTAINED.

(A) There shall be required a license fee as hereinafter prescribed upon the businesses, calling, occupation or institutions, that are hereinafter named.

(B) Any person wishing to obtain a license shall pay to the City Treasurer the amount provided for by this chapter for which Treasurer shall give a receipt, designating the kind of license applied for. Upon the presentation of such receipt to the City Clerk, said Clerk shall forthwith issue the license to the person named in the receipt.

(Ord. 28, passed 11-10-1914)

§ 110.02 AUCTIONEERS, AUCTION SALES.

Auctioneers shall pay an annual license of \$10 per year; provided, however, that nothing in this section in relation to auctions and auctioneers shall extend to any sale of livestock or farm products or to any sale of second hand furniture by or for any person who shall have actually used the same in this town, or to any sale of goods, wares or

merchandise under or by virtue of any chattel mortgage, or of any rule or order of any court, or of any law respecting the collection of any tax or duty either of this state or the United States, or to any sale made in consequence of any general assignment of property or effects for the benefit of creditors made in the county, or to any sale made by or on behalf of any executor or administrator.
(Ord. 28, passed 11-10-1914)

§ 110.03 CIRCUSES, THEATERS, THEATER BUILDINGS AND THE LIKE.

(A) The owner or manager of any circus and menagerie showing under a tent in the city shall pay \$15 per day, for parading and showing, or for parading only; provided also, that if exhibitions are given in more than one ring in said circus, an additional license fee of \$10 per day shall be paid for each additional ring.

(B) Menageries not accompanying any circus shall pay \$10 per day.

(C) Each side show accompanying any circus or menagerie for which a separate admission fee is charged shall pay \$5 per day.

(D) Each opera house, theater or motion picture show shall pay \$10 per annum, payable quarterly in advance.

(E) Each traveling theater, opera, picture show, exhibitor of wax works, painting, statuary or minstrels, or any person or persons engaged in giving any public exhibition of any kind whatever for reward or profit, not performed in a regularly licensed opera house or theater, shall pay \$5 per day; provided, however, that no license shall be required for any lecture or exhibition of a purely literary or scientific character, nor for other concerns or other public entertainment given by amateurs for charity uses or for public benefit.

(Ord. 28, passed 11-10-1914)

§ 110.04 SHOOTING GALLERIES, FORTUNE TELLERS, FAKIRS AND THE LIKE.

Shooting galleries, cane racks, refreshment stands, clairvoyants, fortune tellers, palm readers and all other stands or establishments of a kindred nature shall pay \$5 per day; provided, however, that in the discretion of the City Council they may license shooting galleries that desire to remain permanent for \$50 per year, all payable in advance.

(Ord. 28, passed 11-10-1914)

§ 110.05 MERRY-GO-ROUNDS AND BOWLING ALLEYS.

(A) Persons running a merry-go-round, or similar attraction shall pay a license fee of \$15 per day.

(B) Keepers of bowling alleys or box ball, shall pay an annual license of \$15 per annum for each alley, all payable in advance.

(Ord. 28, passed 11-10-1914)

§ 110.06 TERM OF LICENSE.

No license fee provided for in this chapter at a fixed sum per day shall be issued for a less period than one day, and shall be payable in advance.
(Ord. 28, passed 11-10-1914)

§ 110.07 BILLIARD AND POOL TABLES.

Billiard and pool table keepers for hire or profit shall pay a license as follows: on billiard and pool tables on which the game of billiards or pool is played, \$12 per annum for the first table, and \$8 per annum for each additional table; bagatelle, Jenny Lind or any other table where games are played, \$12 per annum for each table or board. No license shall be granted under this section for a less period than to the first Monday in May thereafter, and nobody owning, keeping or having in charge the place where such tables or devices are kept, shall allow, permit or suffer any minor to remain in such room or place, in such buildings which shall be under his or her control, or keep such place open between the hours of 11:00 p.m., and 8:00 a.m., or on the first day of the week commonly called Sunday.
(Ord. 28, passed 11-10-1914)

§ 110.08 OBSTRUCTING VIEW.

It shall be unlawful for any person, who, having procured a license as provided in the preceding section, to conduct such pool hall, or billiard hall, to so obstruct the windows or doors of the building in which said games are played, as to prevent the free and unobstructed view of the interior thereof by persons from the sidewalk on the outside of such building.
(Ord. 28, passed 11-10-1914) Penalty, see § 110.99

§ 110.99 PENALTY.

Any person violating any of the provisions of this chapter shall upon conviction thereof be fined in a sum not exceeding \$50, and stand committed until such fine is paid.
(Ord. 28, passed 11-10-1914)

CHAPTER 111: ALCOHOLIC BEVERAGES

Section

General Provisions

Oldham, SD Code of Ordinances

- 111.01 Liquor licenses
- 111.02 Open container law
- 111.03 Sale on Sundays; municipal bar

Intoxicating Liquors

- 111.15 License required
 - 111.16 Amount of license and the like
 - 111.17 Permits, how obtained
 - 111.18 Selling to certain persons
 - 111.19 Windows unobstructed and the like
 - 111.20 Minors not allowed
 - 111.21 Pharmacists excepted
-
- 111.99 Penalty

GENERAL PROVISIONS

§ 111.01 LIQUOR LICENSES.

Pursuant to the law, § 5.023 of the 1960 Supplement to the South Dakota Code of 1939 and amendatory acts thereto, has considered its authority to limit the number of Class C off-sale liquor licenses and Class F on-sale liquor licenses to be issued by the city for the year 1969, shall be limited to two each; however the fee to be charged for each license issued shall be based on the number of licenses that the municipality may charge for, which is two each and if one license is issued the recipient will pay on the basis of two licenses the authorized total to said city.

(Ord. passed - -)

§ 111.02 OPEN CONTAINER LAW.

(A) It shall be unlawful for any person to have a package or any receptacle containing an alcoholic beverage in his or her possession in a motor vehicle or in any public place in the city, unless the seal of the original package remains unbroken.

(B) **PUBLIC PLACE** is defined as any public place other than upon the premises of a licensed on-sale dealer where such alcoholic beverage was purchased from such dealer for on-sale purposes, and shall mean any place, whether within or without a building customarily open to or used by the general public and any street or highway.

(Ord. passed - -) Penalty, see § 111.99

§ 111.03 SALE ON SUNDAYS; MUNICIPAL BAR.

Any on-sale licensee may sell, serve or allow to be consumed alcoholic beverages on those Sundays, except between the hours of 2:00 a.m. and 7:00 a.m. both on-sale and off-sale.

(Ord. 250, passed 10-3-2011)

INTOXICATING LIQUORS

§ 111.15 LICENSE REQUIRED.

It shall be unlawful for any person, firm or corporation to engage in the business of selling intoxicating liquors at retail within the city without having first obtained a permit therefor from the corporate authorities of said city, and paying the license fee as hereinafter provided.

(Ord. 28, passed 11-10-1914) Penalty, see § 111.99

§ 111.16 AMOUNT OF LICENSE AND THE LIKE.

(A) The license to be paid for engaging in the business of selling intoxicating liquors within the corporate limits of the city shall be \$1,100 per annum, and for a period of less than a year a pro rata portion of the yearly license.

(B) All permits granted shall terminate with the June 30, next ensuing, and the license fee for the period for which the license is granted shall be paid in advance computed from the first day of the month in which the permit is granted.

(Ord. 28, passed 11-10-1914)

§ 111.17 PERMITS, HOW OBTAINED.

All applications for permits for the sale of intoxicating liquors in this city under this chapter shall conform in substance and form with the revised Political Code of South Dakota, or other statutes or amendments thereto, and all expense incurred in the making of such applications shall be paid by the applicant.

(Ord. 28, passed 11-10-1914)

§ 111.18 SELLING TO CERTAIN PERSONS.

It shall be unlawful for any person to sell, furnish or give away any intoxicating liquors to any minor, intoxicated person, or any person in the habit of getting intoxicated, or to any person to whom the sale has been forbidden pursuant to law.

(Ord. 28, passed 11-10-1914) Penalty, see § 111.99

§ 111.19 WINDOWS UNOBSTRUCTED AND THE LIKE.

It shall be the duty of all persons, their agents or employees, engaged in the sale of intoxicating liquors under the provisions of this chapter to keep their respective places of business unobstructed by screens, blinds, plants, paint or other articles, and not to have the windows located in such manner as to prevent the free and unobstructed view from the main street into the entire room or place wherein such intoxicating liquors are sold. There shall be no partition of any kind in the room where the liquor business is conducted, nor any game of cards, dice, billiards, pool or any other game of skill or chance played in such room, or in any other room or place adjacent thereto, or in the same building, or any tables, chairs or any kind of seats in said room where such business is conducted.

(Ord. 28, passed 11-10-1914) Penalty, see § 111.99

§ 111.20 MINORS NOT ALLOWED.

It shall be unlawful for any person who keeps a place where intoxicating liquors are sold in the city to allow any minor to visit or remain in such room or place, unless accompanied by his or her father, mother or guardian.

(Ord. 28, passed 11-10-1914) Penalty, see § 111.99

§ 111.21 PHARMACISTS EXCEPTED.

Nothing in this chapter shall be construed to apply to any regular licensed pharmacist insofar as he operates under the exercise of his or her rights as given by law to such pharmacists in the handling and sale of intoxicating liquors.

(Ord. 28, passed 11-10-1914)

§ 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.

(B) Violation of § 111.02 shall be punishable by a fine of not to exceed \$100 or by confinement in jail of not to exceed 30 days or by both such fine and imprisonment.

(C) Any person not excepted violating any of the provisions of this chapter shall, upon conviction thereof, be fined not less than \$10 nor more than \$50, and shall stand committed until such fine is paid.

(Ord. passed - -; Ord. 28, passed 11-10-1914)

CHAPTER 112: PEDDLERS AND SOLICITORS

Section

- 112.01 Definitions
- 112.02 Going upon private residence; nuisance; exceptions
- 112.03 Exceptions to licensing and bond provisions
- 112.04 License fee required
- 112.05 Application for license
- 112.06 Bond required for solicitors and peddlers

§ 112.01 DEFINITIONS.

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

PEDDLERS. A person engaged in the selling of personal property by going about from place to place or house to house to sell the same and who carries with him or her such property for delivery at time of sale is a **PEDDLER**.

SOLICITORS. A person engaged in going about from place to place or house to house soliciting orders for, or offering to sell personal property for future delivery. (Ord. passed - -1989)

§ 112.02 GOING UPON PRIVATE RESIDENCE; NUISANCE; EXCEPTIONS.

(A) The practice of going in and upon private residence property by solicitors or peddlers who have not previously been requested or invited so to do by the owner or occupant thereof for the purpose of soliciting orders for the sale of personal property or offering to sell personal property for future deliver, or for the purpose of selling or disposing of personal property thereon, is declared to be a nuisance and is prohibited, and no person licensed as a solicitor or peddler hereunder shall thereby be deemed authorized to go upon any private residence property except with the prior request, invitation or consent of the owner or occupant thereof.

(B) This section shall not apply to the distribution or sale of religious, political, economic or educational tracts, pamphlets, papers or periodicals where the proceeds are to be used exclusively for religious, charitable or benevolent purposes, not to the distribution or sale of personal property where the proceeds are to be used exclusively for religious, charitable or benevolent purposes, not to the peddling or soliciting of orders of any agricultural product or article raised or manufactured by such peddler or solicitor in this state, except that no person shall go upon any private residence property for any of such purposes where the owner or occupant thereof has requested such person not to come thereon for any of such purposes or has placed on said premises in a conspicuous position near the entrance thereof a sign indicating that the occupants of said premises do not desire to be molested or have their rights of privacy disturbed by distributors, solicitors or peddlers of any such personal property, articles or publications, or to have any person come on to said premises for any of such purposes. (Ord. passed - -1989)

§ 112.03 EXCEPTIONS TO LICENSING AND BOND PROVISIONS.

The provisions of this chapter with reference to the bonding and licensing of peddlers and solicitors shall not apply to traveling salesman doing business exclusively with retailers, merchants, manufacturers, jobbers or with public officials, nor to the peddling or soliciting of orders for any agricultural products or manufactured goods raised or manufactured in this state by the person selling or soliciting the sale of the same, nor to any solicitor who does not demand or accept payment of money or any deposit in advance, nor to any solicitor whose terms do not require payment of any money or deposit on delivery without the privilege of examination, nor to the distribution or sale of newspapers nor to distribution or sale of personal property where the proceeds are to be used exclusively for religious, charitable or benevolent purposes, nor the distribution or sale of religious, political, economic or education tracts, pamphlets or periodicals where the proceeds are to be used exclusively for religious, charitable or benevolent purposes.

(Ord. passed - -1989)

§ 112.04 LICENSE FEE REQUIRED.

No person shall deal as a peddler or solicitor as defined by this chapter without having procured license as herein required and no two or more persons shall deal under the same license as partners, agents or otherwise. The license fee for a solicitor, peddler shall be \$10 per day.

(Ord. passed - -1989)

§ 112.05 APPLICATION FOR LICENSE.

The application for license shall state the name of the applicant, permanent address of applicant, whether he or she transacts business for himself or herself or someone else and, if someone else, the name and address of the person, firm or corporation he or she represents, the nature and character of the property to be sold, whether he or she sells and delivers the property directly to the purchaser or whether he or she solicits or takes orders for it by carrying samples or catalogs, the manner in which he or she intends to travel and the character of the vehicle he or she intends to use in traveling, copies of the contracts and agreements he or she intends to make with the customers, and how he or she intends to operate within the city.

(Ord. passed - -1989)

§ 112.06 BOND REQUIRED FOR SOLICITORS AND PEDDLERS.

Every solicitor or peddler before receiving a license shall file in the office of the City Finance Officer, a bond in the penal sum of \$250 for the faithful performance and obligation of such solicitor or peddler arising in connection with his or her business as

such, and for the payment of all claims for damages for which he or she may become liable through fraud, deceit or otherwise in the course of his or her business as such solicitor or peddler.

(Ord. passed - -1989)

TITLE XIII: GENERAL OFFENSES

Chapter

130. PUBLIC OFFENSES

131. WEAPONS

132. CURFEW

CHAPTER 130: PUBLIC OFFENSES

Section

- 130.01 Disorderly conduct
- 130.02 Profane or disorderly language
- 130.03 Profane or vulgar language in presence of females and children
- 130.04 Insulting females
- 130.05 Aiding resistance to, or escape from officer
- 130.06 Indecent exhibition
- 130.07 Indecent exposure of person
- 130.08 Spitting in sidewalk
- 130.09 Drunkenness
- 130.10 Discharging firearms or fireworks
- 130.11 False alarm of fire
- 130.12 Diseased meat, impure food
- 130.13 Defacing property
- 130.14 Inciting dogs to fight
- 130.15 Cruelty to animals
- 130.16 Vagrants
- 130.17 Enticing prostitution
- 130.18 Enticing to house of prostitution or assignation
- 130.19 Keeping bawdy house
- 130.20 Burglar's tools and the like
- 130.21 Defrauding
- 130.22 Gambling
- 130.23 Keeping gambling apparatus
- 130.24 Keeping gambling establishments
- 130.25 Keeping gambling tables and the like
- 130.26 Seizure of implements authorized
- 130.27 Destroyed upon conviction
- 130.28 Persuading persons to visit gambling places

§ 130.01 DISORDERLY CONDUCT.

Whosoever shall within the limits of the city, disturb the peace of the city, any lawful assembly of persons, or of any neighborhood, family, person or persons, or who shall be guilty of quarreling, assaulting or striking any person, or fighting, shall be fined not less than \$1, and not more than \$50, and stand committed until such fine is paid. (Ord. 28, passed 11-10-1914)

§ 130.02 PROFANE OR DISORDERLY LANGUAGE.

No person in the city shall curse, swear, quarrel or use any violent, obscene or threatening language, or make any threats against the person or property of any person or persons, and any person so doing shall, upon conviction thereof, be fined in a sum not less than \$1 nor more than \$50, and stand committed until such fine is paid. (Ord. 28, passed 11-10-1914)

§ 130.03 PROFANE OR VULGAR LANGUAGE IN PRESENCE OF FEMALES AND CHILDREN.

Any person who shall, in the city, use any profane, vulgar or obscene language, in any street or other public place, in the presence of any female, or any child under the age of 14 years, shall, upon conviction thereof, be fined in any sum not exceeding \$25, and stand committed until such fine is paid. (Ord. 28, passed 11-10-1914)

§ 130.04 INSULTING FEMALES.

Any person who shall, in the city, make impudent, insulting or licentious advance to any female person, upon any street, or in any store, or in any other public place shall, upon conviction thereof, be fined in a sum not exceeding \$50, and stand committed until such fine is paid. (Ord. 28, passed 11-10-1914)

§ 130.05 AIDING RESISTANCE TO, OR ESCAPE FROM OFFICER.

No person shall, in the city, aid or assist any person to resist or escape from any officer, or from the lawful confinement of this city, and any person shall, upon conviction thereof, be fined not more than \$50 and stand committed until such fine is paid. (Ord. 28, passed 11-10-1914)

§ 130.06 INDECENT EXHIBITION.

Any person who shall, in the city, make an indecent exposure of his or her person shall, upon conviction, be fined in a sum not exceeding \$50, and stand committed until such fine is paid.

(Ord. 28, passed 11-10-1914)

§ 130.07 INDECENT EXPOSURE OF PERSON.

No person or persons shall give, allow, perform or suffer to be performed, either by himself or herself or agent or employee, any indecent exhibition, tending to offend or corrupt public morals, in the city; and no person shall indecently exhibit any stud horse or bull, or other animal, or let any such horse to any mare, or any bull to any cows, unless in some enclosed place out of view, and any person convicted thereof shall be fined in a sum not less than \$1, nor more than \$50, and shall stand committed until such fine is paid.

(Ord. 28, passed 11-10-1914)

§ 130.08 SPITTING ON SIDEWALK.

It shall be unlawful for any person to spit or expectorate upon the sidewalks in the city, and any person, upon conviction thereof, shall be fined in the sum not exceeding \$10, and stand committed until such fine is paid.

(Ord. 28, passed 11-10-1914)

§ 130.09 DRUNKENNESS.

Any person who shall, in the city, be found drunk or intoxicated in any public place shall, upon conviction thereof, be fined not to exceed \$50, and stand committed until such fine is paid.

(Ord. 28, passed 11-10-1914)

§ 130.10 DISCHARGING FIREARMS OR FIREWORKS.

Any person who shall, in the city, discharge or shoot off any gun, pistol or other firearm, or discharge within the fire limits any firecrackers, rockets or any other piece of fireworks shall, upon conviction, be fined not to exceed \$25, and stand committed until such fine is paid; provided, however, that the City Council, or the President thereof, may suspend the operation of this section on the Fourth of July, or any other day of public rejoicing.

(Ord. 28, passed 11-10-1914)

§ 130.11 FALSE ALARM OF FIRE.

Any person who shall, in this city, knowingly or willfully create a false alarm of fire shall, upon conviction thereof, be punished by a fine of not to exceed \$25, and stand committed until such fine is paid.

(Ord. 28, passed 11-10-1914)

§ 130.12 DISEASED MEAT, IMPURE FOOD.

Any person who shall sell, or offer for sale, either by himself or herself, agent or employee, any spoiled, diseased or rotten meat or provisions of any kind, shall, upon conviction thereof, be fined not more than \$50, and stand committed until such fine is paid.

(Ord. 28, passed 11-10-1914)

§ 130.13 DEFACING PROPERTY.

No person shall wantonly mar, injure, destroy or deface any fence, guide post, sign board or awning, or any building, or any tree, bush or shrub, telephone or electric wires, or any other property in any street or public or private place in the city, and upon conviction thereof, shall pay a fine of not to exceed \$50, and stand committed until such fine is paid.

(Ord. 28, passed 11-10-1914)

§ 130.14 INCITING DOGS TO FIGHT.

Any person who shall, in the city, by words, signs or otherwise, set any dog or dogs to fighting, or to attack any other dog or dogs, or who shall aid or abet any dog fight; or any owner, keeper or harbinger of any dog who shall knowingly permit such dog to fight, without endeavoring to prevent the same; or any person who shall, by words, signs or otherwise, set on or encourage any dog to attack or chase any human being, not engaged in any malicious act, shall, upon conviction, be fined not to exceed \$25, and stand committed until such fine is paid.

(Ord. 28, passed 11-10-1914)

§ 130.15 CRUELTY TO ANIMALS.

Any person who shall, in the city, cruelly or immoderately beat any horse, mule or cow, or other animal, or wantonly or maliciously torture or injure any animal; or shall leave standing on the street or any other place any horse, mule, team or other animal, unprotected for an unreasonable length of time; or shall neglect to properly take care of, or feed any such animal; or who shall overload or overwork or overdrive any horse, or other working animal, shall, upon conviction thereof, be fined not more than \$50, and stand committed until such fine is paid. The City Marshal or other proper authority shall

take such action as may be necessary for the immediate protection of such animal or animals.

(Ord. 28, passed 11-10-1914)

§ 130.16 VAGRANTS.

All idle and suspicious persons who, not having visible means of maintaining themselves, live without employment; all persons who shall be found loitering about the streets, or who shall follow no labor, trade or occupation, and having no visible means of support, and give no reasonable account of themselves or their business; all persons wandering abroad, lodging in beer saloons, outhouses, sheds, barns, railroad cars or in the open air not able to give a good account of themselves; all male persons who live in or about houses of ill-fame; all lewd, wanton or lascivious persons in speech or behavior; all persons who go from door to door, or place themselves in any street or alley or other public place to beg or receive alms, shall be deemed vagrants, and upon conviction thereof, shall be punished by a fine not to exceed \$50, and stand committed until such fine is paid.

(Ord. 28, passed 11-10-1914)

§ 130.17 ENTICING PROSTITUTION.

Any person who shall, in the city, or within one mile of the outer boundaries thereof, entice to prostitution, or follow the calling of a prostitute, shall, upon conviction, be fined not exceeding \$50, and stand committed until such fine is paid.

(Ord. 28, passed 11-10-1914)

§ 130.18 ENTICING TO HOUSE OF PROSTITUTION OR ASSIGNATION.

Any person who shall, in the city, or within one mile from the outer boundaries thereof, entice or attempt to entice any person, male or female, into a house of prostitution or assignation, shall, upon conviction thereof, be fined not less than \$25 nor more than \$50, and stand committed until such fine is paid.

(Ord. 28, passed 11-10-1914)

§ 130.19 KEEPING BAWDY HOUSE.

Every person who, in the city, or within one mile of the outer boundaries thereof, shall keep any bawdy house, house of ill fame, or assignation, or whoever shall erect, establish, continue, maintain, use, own or lease any building, erection or place or the ground itself, in or upon which lewdness, assignation or prostitution is practiced or carried on, shall be fined not less than \$10 nor more than \$50, and stand committed until such fine is paid.

(Ord. 28, passed 11-10-1914)

§ 130.20 BURGLAR'S TOOLS AND THE LIKE.

It shall be unlawful for any person to have in his or her possession any nippers of the description known as burglar's nippers, pick lock, skeleton key, key to be used with bit or bits, jimmy or other burglar's tools or instruments of whatsoever kind or description, unless it be shown that such possession is innocent, or for a lawful purpose, and any person convicted thereof shall be fined in a sum not exceeding \$50, and stand committed until such fine is paid.

(Ord. 28, passed 11-10-1914)

§ 130.21 DEFRAUDING.

Any person who shall, within the city, by any device or by fraud, defraud or attempt to defraud, any person out of money or anything of value shall, upon conviction, be fined not less than \$5 nor more than \$50, and stand committed until such fine is paid.

(Ord. 28, passed 11-10-1914)

§ 130.22 GAMBLING.

No person shall, in the city, play at any game of chance, with cards, dice, gambling tables or any other gambling device, upon which money or any other article of value is staked, and any person shall, upon conviction thereof, be fined not less than \$10 nor more than \$50, and stand committed until such fine is paid.

(Ord. 28, passed 11-10-1914)

§ 130.23 KEEPING GAMBLING APPARATUS.

It shall be unlawful in this city to maintain or keep any table, cards or any other article or apparatus whatever, used or intended to be used, in playing cards, or other games of chance for money or other property, and any person convicted thereof, shall be fined not less than \$10 nor more than \$50, and stand committed until such fine is paid.

(Ord. 28, passed 11-10-1914)

§ 130.24 KEEPING GAMBLING ESTABLISHMENTS.

No person shall keep any building, or part of any building, or any other place in the city, to be used or occupied for gambling, or wherein any game of chance for money

or other property is played, and any person, upon conviction thereof, shall be fined not less than \$10 nor more than \$50, and shall stand committed until such fine is paid.
(Ord. 28, passed 11-10-1914)

§ 130.25 KEEPING GAMBLING TABLES AND THE LIKE.

No person or persons shall set up or keep or maintain, or permit to be set up, kept or maintained within their place of business in the city, any device of any kind for the purpose of gambling, or with which money or anything of value shall be played for, and any person shall, upon conviction thereof, be fined not less than \$5 nor more than \$50, and stand committed until such fine is paid.
(Ord. 28, passed 11-10-1914)

§ 130.26 SEIZURE OF IMPLEMENTS AUTHORIZED.

Every person who is authorized or enjoined to arrest any person for violations of §§ 130.21, 130.22, 130.23, 130.24, is equally authorized and enjoined to seize any tables, cards or device used or suitable to be used for gambling purposes, found in the possession of or under the control of the person so arrested, and to deliver the same to the Justice of the Peace with whom the complaint against the person so arrested is filed.
(Ord. 28, passed 11-10-1914)

§ 130.27 DESTROYED UPON CONVICTION.

Upon the conviction of the accused, the court before whom such conviction is had, shall cause such thing used or suitable to be used for gambling purposes, in respect whereof the accused stands convicted, and which remain in the possession or under the control of such court, to be destroyed.
(Ord. 28, passed 11-10-1914)

§ 130.28 PERSUADING PERSONS TO VISIT GAMBLING PLACES.

Every person who persuades another in the city to visit any building or part of building, or any other place in this city, used or occupied for the purpose of gambling, and in consequence thereof, such person gambles therein, shall, upon conviction thereof, be fined not less than \$5 or more than \$50, and shall stand committed until such fine is paid.
(Ord. 28, passed 11-10-1914)

CHAPTER 131: WEAPONS

Section

- 131.01 Drawing deadly weapons
- 131.02 Carrying concealed weapons
- 131.03 Air rifles

§ 131.01 DRAWING DEADLY WEAPONS.

Any person, not an officer of the law in the execution of his or her duty, who shall, in the city, draw any pistol, revolver, knife or other dangerous or deadly weapon upon another person, shall upon conviction thereof be punished by a fine of not less than \$10, nor more than \$50, and stand committed until such fine is paid.
(Ord. 28, passed 11-10-1914)

§ 131.02 CARRYING CONCEALED WEAPONS.

Any person, not an officer of the law in the execution of his or her duty, who shall carry concealed about his person any firearm, slingshot, sheath or dirk knife, brass knuckles or any other weapon, which, when used, is likely to produce death or great bodily harm, shall pay a fine of not less than \$5 nor more than \$50, and stand committed until such fine is paid.
(Ord. 28, passed 11-10-1914)

§ 131.03 AIR RIFLES.

The City Council prohibited the discharging of any air rifle within the city limits. Anyone violating this section will be prosecuted under penalty of \$5 fine and confiscation of gun.
(Ord. passed - -)

CHAPTER 132: CURFEW

Section

- 132.01 Unlawful to be on street
- 132.02 Duty of officer
- 132.03 Duty of City Marshal or appointee

§ 132.01 UNLAWFUL TO BE ON STREET.

It shall be unlawful for any child or minor under the age of 16 years to be in or upon any public street or alley within the city between the hours of 9:00 p.m., and 5:00 a.m., from May 1 to October 1: 8:00 p.m. from October 1 to May 1 unless such child or minor is accompanied by its parents or one of them, or its legal guardian, or shall be engaged in the performance of some duty under the direction of such parent or guardian.

(Ord. 28, passed 11-10-1914)

§ 132.02 DUTY OF OFFICER.

It shall be the duty of the Marshal or other peace officer of the city who shall find any child or minor under the age of 16 years in or upon any public street or alley of the city as aforesaid, and in violation of § 132.01, to take such minor into his or her custody and control, and conduct him or her as soon as possible to his or her place of residence; provided, that if such minor shall be found violating the provisions of § 132.01 within one month of such first offense, he or she shall be taken forthwith, or as soon as possible, before the Justice of the Peace of the city, and dealt with according to law, and upon conviction of such second offense shall be fined in a sum not exceeding \$10.

(Ord. 28, passed 11-10-1914)

§ 132.03 DUTY OF CITY MARSHAL OR APPOINTEE.

It shall be the duty of the City Marshal, or someone appointed by him or her, to toll the hour with a bell of the city at 9:00 p.m. from May 1 to October 1, or at 8:00 p.m., from October 1 to May 1 of each day, to indicate the arrival of the curfew hour.

(Ord. 28, passed 11-10-1914)

TITLE XV: LAND USAGE

Chapter

- 150. BUILDINGS**
- 151. FENCES, HEDGES AND TREES**
- 152. FLOOD DAMAGE PREVENTION**
- 153. SIGNS**
- 154. ZONING**

CHAPTER 150: BUILDINGS

Section

General Provisions

- 150.01 Buildings within fire limits
- 150.02 Chimneys
- 150.03 Removal of buildings
- 150.04 Repair of buildings
- 150.05 Applications for permits
- 150.06 Inspection of buildings and chimneys
- 150.07 Uniform Code for the Abatement of Dangerous Buildings
- 150.08 Removal and destruction of buildings

Residential Rental Units

- 150.20 Purpose
- 150.21 Definition
- 150.22 Registration
- 150.23 Registration permit cost
- 150.24 Manner of registration
- 150.25 Expiration
- 150.26 Property transfers
- 150.27 No waiver of code compliance
- 150.28 Control
- 150.29 Failure to register

- 150.99 Penalty

GENERAL PROVISIONS

§ 150.01 BUILDINGS WITHIN FIRE LIMITS.

All buildings or structures, or any and all additions to any buildings or structures, hereafter built, erected or constructed on any of the lots in Blocks 4, 5, 6, 7, 8 and 9 of the city, for any purposes, shall be built or constructed of stone, cement blocks or brick, and shall be placed upon a solid stone, brick or equally good foundation. The weather covering of all roofs within said fire limits shall be of incombustible material. No uncovered tar composition, rosin felt or wood work shall in any way be exposed upon any roof within said fire limits, and dormer windows, cornices, moldings, balconies, bay windows, towers and spires, not composed of incombustible material, shall be covered with metal; provided, that nothing herein contained shall be construed as prohibiting the erection within said fire limits of any building, the outer walls of which shall be composed of wood, which building shall be not more than ten feet square and eight feet high and shall not be attached to or within 20 feet of any other wooden structure; provided, also, that the City Council is hereby empowered, when in their judgment the public safety will not be endangered, or the fire hazard increased, to grant permits for the erection of buildings within the fire limits, which erection is prohibited by the provisions of this section, upon application of the owner or owners, of the lot or lots

upon which it is desired to erect such structure, provided that no such permit shall be granted for any such building to be erected within 50 feet of Main Street. All applications for such permits shall be made in conformity with the provisions of this chapter in regard to application for permit to erect buildings.

(Ord. 28, passed 11-10-1914)

§ 150.02 CHIMNEYS.

No chimney erected in or upon any building within the fire limits of the city shall have less than four-inch walls, nor be less than five feet above a flat roof, or three feet above a pitch roof or ridge, and shall be plastered from base to top inside, and well laid in good strong mortar. All fireplaces shall have at least eight-inch walls extending five feet above fire box, and all stove pipes shall enter chimneys at least 14 inches below the ceiling.

(Ord. 28, passed 11-10-1914)

§ 150.03 REMOVAL OF BUILDINGS.

No building within said fire limits shall be removed to any other place within said fire limits, nor shall any building be removed from without to within said fire limits, unless such building, if erected at such place of removal, would have been in compliance with the provisions of this chapter.

(Ord. 28, passed 11-10-1914)

§ 150.04 REPAIR OF BUILDINGS.

If any building or structure within the fire limits of the city shall have become damaged by fire, decay or any other cause, to the extent of half its value, or shall in any manner become a menace to public safety, the City Council may proceed to condemn the same and declare it to be a nuisance and order it to be immediately removed or repaired at the expense of the owner or person in possession thereof. Notice of such order of condemnation by the City Council shall be served upon the owner or person in possession of such property, if a resident of the county, and, if such owner or person in possession of such property be a nonresident of said county, then by publication of such notice in the official paper of the city for a period of three successive weeks. And if the owner or person in possession shall fail or refuse to repair or remove the same, then it shall, be removed by the city at the cost and expense of such owner or person in possession, which said cost and expense may be recovered from such owner in a civil action, brought in the name of the city.

(Ord. 28, passed 11-10-1914)

§ 150.05 APPLICATIONS FOR PERMITS.

Any person desiring to erect any building or structure within the fire limits of the city, or to remove any building already erected to or within said fire limits shall make application to the City Council in writing for a permit to make such erection or removal, which said application shall state the location of the structure, number and height of stories, dimensions of joists and chimneys, their distance apart, dimensions of supporting iron work, for what purpose the building or structure is designed, plan of foundation and chimneys and chimney rests, and such other items as the City Council may require. Such application shall be signed by the applicant, his or her architect or agent, and shall constitute a contract that said building or structure and all parts thereof shall be constructed in all parts thereof in accordance with said detailed statement and the plans and specifications submitted to the City Council, and in accordance with the provisions of the ordinances of the city. And it shall not be lawful to proceed to construct, alter or repair any building within the fire limits of the city without permit issued upon said application by the City Council, or not in compliance with said plans, specifications or detailed statement.

(Ord. 28, passed 11-10-1914)

§ 150.06 INSPECTION OF BUILDINGS AND CHIMNEYS.

It shall be the duty of the City Marshal, or other person designated by the City Council, between October 1 and November 1 of each year, to inspect the heating arrangement and chimneys of all buildings situated within the fire limits of the city. Whenever such person shall find by such inspection that any chimney or flue in any building is in an unsafe condition on account of the liability of fire originating therefrom to be communicated to other woodwork or other combustible material adjacent thereto, he or she shall serve a notice in writing upon the owner, agent or occupant of such building, forthwith to repair said chimney or flue so as to make it conform to the requirements of this chapter, and to cease at once the use of the same in connection with, any stove, furnace or other apparatus in which fire is used and smoke conducted through said defective chimney or flue. Each day's violation of the requirements of this notice, or each day that said defective chimney or flue is used after service of said notice, shall constitute a separate offense, for which, upon conviction, the owner or occupant of said building shall be subject to the penalties provided for in this chapter.

(Ord. 28, passed 11-10-1914) Penalty, see § 150.99

§ 150.07 UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS.

(A) It is 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, located within the corporate limits of the city for the abatement of dangerous buildings, that certain Uniform Code known as the Uniform Code, being particularly the 1982 edition, including the appendix all published by the International Conference of Building Officials: Uniform Code for the Abatement of Dangerous Buildings, 1982

Edition and the whole thereof, save and except such portions as are hereinafter deleted, modified or amended, of which not less than one copy has been and now is filed in the office of the finance officer, and the same is adopted and incorporated as fully as if set out at length herein, and from the date on which the ordinance codified herein shall take effect. The provisions thereof shall be controlling within the corporate limits of the city.

(B) The governing body is authorized to adopt and the Building Inspector and Health Officer shall promulgate rules and regulations deemed necessary for the proper and effective administration of the provisions of this section. Such rules and regulations shall be consistent with the provision of this section and the standards established herein.

(Ord. 153, passed - -) Penalty, see § 150.99

§ 150.08 REMOVAL AND DESTRUCTION OF BUILDINGS.

(A) No building of any type shall be removed from its location within the city, or destroyed, until a permit is issued by the city. The charge for such permit shall be set by resolution of the City Council.

(B) The permit shall specify the date by which the removal or destruction shall be completed.

(C) The applicant shall conduct said removal or destruction in a careful and expedient manner and shall ensure that the building site is cleaned and filled to the satisfaction of the City Council.

(D) Applicant shall submit with his or her application a cash bond in the amount of \$3,000 for residential properties and \$10,000 for commercial and multiple family dwelling properties in the case of destruction or removal to insure and indemnify the city, should the applicant fail to clean and fill the site, or cause any damage to any property by virtue of removal or destruction, including, but not limited to, streets, water lines and sewer lines.

(E) The bond moneys shall be deposited in escrow at the bank of the applicant's choice, in an interest bearing savings account, in the name of the city, any accrued interest shall inure to the benefit of the applicant.

(F) Should the City Council determine that the applicant has not complied with the terms and conditions of the permit, the city may employ the services and purchase any material necessary to complete the site cleanup and to repair any damages.

(G) Upon completion of the building removal or destruction, the City Council shall release any unused bond proceeds and accrued interest to the applicant.

(H) The city, in addition to the above, reserves the right to all of its remedies at law concerning any claim which may arise from the removal or destruction of buildings.
(Ord. 153, passed - -; Ord. 201, passed 11-6-1995)

RESIDENTIAL RENTAL UNITS

§ 150.20 PURPOSE.

The purpose of this subchapter is to protect the health, safety and welfare of the citizens of the city by requiring registration of residential rental housing units.
(Ord. 240, passed - -2008)

§ 150.21 DEFINITION.

RESIDENTIAL RENTAL UNIT means any building or structure including the real property upon which it is located, which is rented or offered for rent as living quarters. It does not mean on-campus housing, hospital units, nursing home units or hotels or motels with daily rental units, or temporary rental arrangements to immediate family members, all of which shall be exempt from any requirements of this subchapter.
(Ord. 240, passed - -2008)

§ 150.22 REGISTRATION.

(A) No person shall allow to be occupied, advertise for occupancy, solicit occupants of, or let to another person for occupancy any residential rental unit within the city that has not been registered as residential rental unit by the city.

(B) A residential rental property owner and/or the designated agent shall notify the city in writing within 20 calendar days after any change to the information.

(C) The registration shall require the following information:

(1) Name, mailing address and phone number of the property owner, and if the owner is not a natural person, the name, address and phone number of a designated agent for the owner;

(2) The legal description and street address of the residential rental unit; and

(3) The number and type of units; i.e., dwelling units or sleeping rooms.
(Ord. 240, passed - -2008)

§ 150.23 REGISTRATION PERMIT COST.

There shall be no cost or other fee charged for the registration of rental properties pursuant to this subchapter.
(Ord. 240, passed - -2008)

§ 150.24 MANNER OF REGISTRATION.

This subchapter shall become effective on January 1, 2009 and all owners of residential rental units shall register with the city by that date.
(Ord. 240, passed - -2008)

§ 150.25 EXPIRATION.

Each registration shall expire either on December 31 in the third year following the year of issuance or earlier when such registration shall immediately expire and be considered revoked.

(Ord. 240, passed - -2008)

§ 150.26 PROPERTY TRANSFERS.

To transfer a registration for a residential rental unit from one owner to another, the applicant shall give notice, including the name and address of the transferee, to the city of the transfer within 30 days after such transfer. Any registration for a residential rental unit being transferred shall expire upon its original expiration date.

(Ord. 240, passed - -2008)

§ 150.27 NO WAIVER OF CODE COMPLIANCE.

No registration for a residential rental unit shall be deemed to cure, waive or grant a right of continued operation for property that is determined to be in violation of any applicable ordinances of the city.

(Ord. 240, passed - -2008)

§ 150.28 CONTROL.

The Finance Officer, under the direction of the City Council, shall accomplish the registration of residential rental housing units.

(Ord. 240, passed - -2008)

§ 150.29 FAILURE TO REGISTER.

Failure to register as herein prescribed shall be punishable pursuant to § 150.99.

(Ord. 240, passed - -2008)

§ 150.99 PENALTY.

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

(B) Any person who violates any provisions of § 150.07 or any provisions of any rule or regulations adopted and promulgated thereunder is guilty of a misdemeanor. Each day's violation is a separate misdemeanor, punishable by a fine of not to exceed

\$100, or confinement for a period of not to exceed 30 days, or both such fine and confinement.

(Ord. 153, passed - -)

CHAPTER 151: FENCES, HEDGES AND TREES

Section

- 151.01 Corner visibility
- 151.02 Other than corner
- 151.03 Within building lines
- 151.04 Measurement rule
- 151.05 Exception, Board of Adjustment

- 151.99 Penalty

§ 151.01 CORNER VISIBILITY.

Except in zones allowing the construction of buildings or structures to the property line, there shall be provided an unobstructed view across the triangle formed by joining points measured 20 feet distant along the property line from the intersection of two streets or 15 feet along both the street and alley line from the intersection of a street and an alley. Within said triangle, there shall be no sight obscuring or partial obscuring wall, fence, object or foliage higher than 30 inches above grade or in the case of trees, foliage lower than eight feet. Vertical measurement shall be made at the top of the curb on the street or alley adjacent to the nearest side of the triangle or if no curb exists, from the edge of the nearest traveled way. No planting, object or wall shall be permitted within the street right-of-way.

(Ord. 238, passed 9-8-2008)

§ 151.02 OTHER THAN CORNER.

A fence, wall and/or hedge not exceeding 80 inches in height above the ground level may be erected or maintained upon any zoning lot, except that no fence, wall or hedge located within a front yard shall be erected, placed, planted or allowed to grow in such a manner as to materially impede vision of intersection streets.

(A) Solid fences, walls and hedges extending past the building setback into the front yard and side yard setback on corner lots shall not exceed 24 inches in height above the ground level, and fences of a chain-link material extending past the building setback into the front yard shall not exceed 48 inches in height above the ground level.

(B) No person shall hereafter construct, erect or maintain or cause to be constructed, erected or maintained, in the city limits of this city any fences of any character or material, without first securing a building permit from the City Council.

Further, no such fence of any kind shall be built closer than two feet to the inside sidewalk line or street right-of-way, and no electric fence or fence with barbed wire be constructed in any residential district fence within the city limits. Except that barbed wire may be used in connection with a security fence when the barbed wire is at least six feet from the ground.

(C) Fences which are adjacent to alleys shall be set back ten feet from the street/boulevard right-of-way.

(D) Trees that have foliage hanging over sidewalks or street right-of-way shall be trimmed to clear such sidewalk or street right-of-way by eight feet, and no shrubbery, hedges or coniferous trees shall be planted, or objects be permitted in the street right-of-way, and if such plantings or objects are within the street right-of-way, the city shall not be held liable for removal or damage when such street right-of-way shall be used for lawful street right-of-way purposes.

(Ord. 238, passed 9-8-2008) Penalty, see § 151.99

§ 151.03 WITHIN BUILDING LINES.

Fences and hedges erected within a portion of a zoning lot on which a principal building, but not an accessory building, may be erected shall conform to height limits of buildings which may be erected on such lot, but shall be subject to any Building Code provisions which may be applicable.

(Ord. 238, passed 9-8-2008)

§ 151.04 MEASUREMENT RULE.

Heights of fences, hedges and other continuous foliage shall be measured from the adjacent top of the street curb, surface of an alley or the official established grade thereof, whichever is the higher. On inside lot lines measurement shall be from the average of the lot line of the parcel or property having the lower elevation.

(Ord. 238, passed 9-8-2008)

§ 151.05 EXCEPTION, BOARD OF ADJUSTMENT.

The City Council may approve, or may direct as a condition for granting an appeal, that fences or plantings of a height in excess of these regulations be placed as shielding between different uses, or between like uses upon agreement between the parties affected thereby, provided that no such approval shall have the effect of reducing corner visibility as provided for herein.

(Ord. 238, passed 9-8-2008)

§ 151.99 PENALTY.

Violation of this chapter is a Class 2 misdemeanor punishable by a fine not to exceed \$500 or by imprisonment not to exceed 30 days, or by both such fine and imprisonment. Each violation shall be a separate and distinct offense.
(Ord. 238, passed 9-8-2008)

CHAPTER 152: FLOOD DAMAGE PREVENTION

Section

- 152.01 Authorization, findings, purpose
- 152.02 Methods of reducing flood losses
- 152.03 Definitions
- 152.04 General provisions
- 152.05 Administration
- 152.06 Provisions for flood hazard reduction

§ 152.01 AUTHORIZATION, FINDINGS, PURPOSE.

(A) *Statutory authorization.* The legislature of the state has in (state statute delegating authority) 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.

(B) *Findings of fact.*

(1) 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.

(2) 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 floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

(C) *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:

- (1) To protect human life and health;
- (2) To minimize expenditure of public money for costly flood control projects;
- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) To minimize prolonged business interruptions;

(5) 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;

(6) 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;

(7) To ensure that potential buyers are notified that property is in an area of special flood hazard; and

(8) To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

(Ord. 204, passed - -)

§ 152.02 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. 204, passed - -)

§ 152.03 DEFINITIONS.

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

BASE FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year.

DEVELOPMENT. Any human-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

FLOOD or FLOODING. A general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of waters; and/or

(2) The unusual and rapid accumulation or runoff of surface waters from any source.

MANUFACTURED HOME. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term **MANUFACTURED HOME** does not include a “recreational vehicle.”

STRUCTURE. A walled and roofed building or manufactured home that is principally above ground.

SUBSTANTIAL IMPROVEMENT.

(1) Any repair, 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.

(2) This term includes structures which have incurred “substantial damage,” regardless of the actual repair work performed.

(3) The term does not, however, include either:

(a) 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

(b) Any alteration of a “historic structure, provided that the alteration will not preclude the structure’s continued designation as a “historic structure.”
(Ord. 204, passed - -)

§ 152.04 GENERAL PROVISIONS.

(A) *Lands to which this chapter applies.* This chapter shall apply to all areas within the jurisdiction of the city.

(B) *Compliance.* No structure or land shall hereafter be constructed, located, extended or altered without full compliance with the terms of this chapter and other applicable regulations.

(C) *Abrogation and greater restrictions.* This chapter is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions; however, where this chapter and another ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(D) *Interpretation.* In the interpretation of this chapter, all provisions shall be:

(1) Considered as minimum requirements;

(2) Liberally construed in favor of the governing body; and

(3) Deemed neither to limit nor repeal any other powers granted under state statute.

(E) *Warning and disclaimer of liability.* This chapter shall not create liability on 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. 204, passed - -)

§ 152.05 ADMINISTRATION.

(A) *Establishment of development permit.* A development permit shall be obtained before construction or development begins within the community. Application for a development permit shall be made on forms furnished by the city and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities and the location of the foregoing.

(B) *Designation of the local administrator.* The City Council is hereby appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

(C) *Duties and responsibilities of the City Council.* Duties of the City Council shall include, but not be limited to, permit review:

(1) Review all development permits to determine that the permit requirements of this chapter have been satisfied and to determine whether proposed building sites will be reasonably safe from flooding;

(2) Review all development permits to determine that permits have been obtained from those federal, state or local governmental agencies from which prior approval is required; and

(3) Review all development permits to determine if the proposed development adversely affects the flood carrying capacity of the flood-prone area. For the purposes of this chapter, **ADVERSELY AFFECTS** means damage to adjacent properties because of rises in flood stages attributed to physical changes of the channel and the adjacent overbank areas.

(a) If it is determined that there is no adverse effect and the development is not a building, then the permit shall be granted without further consideration.

(b) If it is determined that there is an adverse effect, then technical justification (i.e., a registered professional engineer's certification) for the proposed development shall be required.

(c) If the proposed development is a building, then the provisions of this chapter shall apply.

(Ord. 204, passed - -)

§ 152.06 PROVISIONS FOR FLOOD HAZARD REDUCTION.

(A) *General standards.* If a proposed building site is located in a flood-prone area, all new construction and substantial improvements (including the placement of manufactured homes) shall conform to the following standards.

(1) *Anchoring.* All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure and capable of resisting hydrostatic and hydrodynamic loads.

(2) *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.

(3) *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.

(4) *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.

(Ord. 204, passed - -)

CHAPTER 153: SIGNS

Section

153.01	Purpose and intent
153.02	Definitions
153.03	Agricultural Districts
153.04	Residential Districts
153.05	Commercial Districts
153.06	Signs in public right-of-way
153.07	Political signs

§ 153.01 PURPOSE AND INTENT.

(A) These regulations provide standards for the location and erection of on-site and off-site signs. Regardless of the character of the sign or its message content, all signs placed or erected, and signs that are attached to, or painted onto existing structures shall comply with the sections herein. The purpose of this chapter is to prevent the uncontrolled use and placement of signs, and to promote public health, safety and welfare.

(B) It is the intent of these regulations to provide for the safety of persons and property by providing signs that do not create a hazard due to collapse, decay or lack of

maintenance. Further, that all signs are placed so that they do not become a traffic hazard by impairing a driver's visibility at intersections, driveways, seeing pedestrians, obstacles or other vehicles; and that they are not confusing to motorists and hinder their ability to see and interpret any official traffic sign, signal or device.

(C) All signs and banners shall be maintained in a safe and legible condition at all times, including the replacement of defective parts of the sign structure, painting, repainting, cleaning and other services required for maintenance of said signs and banners, including fastening and securing. Unsafe and abandoned signs/banners shall be removed or brought into compliance within five calendar days upon notice from the Finance Office.

(D) To protect the public welfare and to enhance the appearance and economic value of the affected property, no signs shall be erected that:

- (1) Create a nuisance to persons using the public right-of-way; and
- (2) Constitute or create a nuisance to occupancy of adjacent and contiguous property by their brightness, size, height, appearance and/or purpose.

(E) All signs placed in or adjacent to any state controlled right-of-way are subject to the requirements of the State Department of Transportation and may require a permit from the state, as well as from the city, to be placed.

(Ord. 216, passed 7-8-2002)

§ 153.02 DEFINITIONS.

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

BANNER SIGNS. Signs constructed without a frame and usually made of cloth, canvas or plastic and secured with ropes or cables.

BILLBOARD SIGNS.

(1) Any structure or portion thereof, situated on private property on which lettered, figured or pictorial matter is displayed for advertising purposes, but not the name and occupation of the user of the premises, the nature of the business conducted on the premises or the products primarily sold or manufactured on the premises and having an area of 50 square feet or more.

(2) Any signboard carrying a message meeting this definition that also carries extraneous advertising of 50 square feet or more shall be considered a **BILLBOARD**.

(3) This definition shall not include any board, sign or surface used to display any official notices issued by a court or public duty, bulletin boards used to display announcement of meetings to be held on the premises on which such bulletin boards are located, nor shall it include real estate sign advertising for sale or rent the property upon which it stands when such sign does not exceed 50 square feet.

FREESTANDING SIGNS. Signs that are mounted vertically on a pedestal or base and are semi-permanently attached to its base or footing.

OFF-SITE SIGNS. Signs that are placed on or off the owner's property, but that call attention to a location other than where the sign is located.

ON-SITE SIGNS. Signs that are placed on the owner's property and call attention only to the property on which they are placed.

POLITICAL SIGNS. Signs that promote a political candidate, a political issue, or both.

PORTABLE SIGNS. Signs that can be freely moved about and do not require any tools or construction to install them. Usually, **PORTABLE SIGNS** are considered **'A' BOARD SIGNS.**

PROJECTING SIGNS. Signs that are placed against a structure and project out away from the face of the structure. The sign does not have to project at a right angle to be considered a **PROJECTING SIGN.**

SIGN. Any device, which directs attention to business, commodity, service or entertainment but not including any flag, badge or insignia of any government agency, or any civic, charitable, religious, patriotic or similar organizations.

WALL SIGNS. Signs that are placed flat against a structure, fence or wall. Signs that are painted onto a wall, fence or structure are also considered **WALL SIGNS.** (Ord. 216, passed 7-8-2002)

§ 153.03 AGRICULTURAL DISTRICTS.

The following uses are permitted as accessory to the principal permitted uses in the Agricultural District.

(A) *On-site.*

(1) Signs not over 18 square feet in area identifying the occupants or the activity engaged in on the premises and provided there is not over two square feet of extraneous advertising matter on any such sign.

(2) Signs can be freestanding, projecting, portable or wall type signs.

(3) Signs must be located entirely on the premises. No part of the sign or attached parts may extend past the property line.

(4) Signs, including pedestal, posts and bases, may not exceed 30 feet in height.

(5) Signs not to exceed two square feet in area identifying the premises and occupant, but not including advertising matter.

(B) *Off-site.*

(1) No off-site signs are permitted in agricultural zoning except that contractor signs no larger than six square feet and not more than five feet in height may be placed on an agricultural lot only while that contractor is working at that lot. Contractor signs must be removed within ten days after substantial completion of the project.

(2) Off-site signs as permitted by § 153.07.

(Ord. 216, passed 7-8-2002)

§ 153.04 RESIDENTIAL DISTRICTS.

(A) *On-site.*

Oldham, SD Code of Ordinances

(1) Signs can be freestanding, projecting, portable or wall type signs.

(2) Signs not to exceed two square feet in area identifying the premises and occupant, but not including advertising matter. Public, churches, chapels and public and quasi-public buildings for cultural use, may have identification signs not to exceed 20 square feet in area.

(3) Home occupation signs identifying the home occupation, no larger than one square foot in size, attached flat against the building and unlighted. However, advertising displays and advertising devices displayed through a window of the building shall not be permitted.

(4) Real estate sales signs not over six square feet in area and relating to the property on which the sign is located. Real estate signs must be entirely on the lot and must not be in the right-of-way.

(B) *Off-site.*

(1) No off-site signs are permitted in residential zoning except that contractor signs no larger than six square feet and not more than five feet in height may be placed on a residential lot only while that contractor is working at that lot. Contractor signs must be removed within ten days after substantial completion of the project.

(2) Off-site signs as permitted by § 153.07.

(Ord. 216, passed 7-8-2002)

§ 153.05 COMMERCIAL DISTRICTS.

(A) *On-site.*

(1) Signs can be freestanding, projecting, portable, banner or wall type signs.

(2) All on-site advertising signs, which are not attached to or made part of a commercial structure, shall be located on the zoning lot in such a manner that no portion of the sign shall overhand street right-of-way or adjoining property.

(3) All signs attached to a building or commercial structure shall be three feet behind the curb and eight feet above any adjacent walking surface.

(4) No sign shall be larger than 200 square feet in size and shall not exceed 50 feet in height.

(B) *Off-site.*

(1) Contractor signs no larger than six square feet and not more than five feet in height may be placed on a lot only while that contractor is working at that lot. Contractor signs must be removed within ten days after substantial completion of the project.

(2) Off-site signs as permitted by § 153.07.

(Ord. 216, passed 7-8-2002)

§ 153.06 SIGNS IN PUBLIC RIGHT-OF-WAY.

(A) No person, agency or group shall place, attach, paint on or affix to any appurtenance within the public right-of-way, any type of sign or directions to any activity

or place without prior approval of the City Council. Exception: governmental agencies may place informational, directional and traffic signs within their own jurisdiction as deemed necessary.

(B) Political signs that are in compliance with § 153.07 are allowed.

(C) Temporary road construction and warning signs that are required for the safe passage of vehicle and/or pedestrian traffic and that are approved by the State Department of Transportation or the City Council are allowed.

(Ord. 216, passed 7-8-2002)

§ 153.07 POLITICAL SIGNS.

(A) With the exception of bumper stickers placed on licensed motor vehicles, no person shall place or display any political candidate or election issue signs on public or private property prior to four weeks before any election and all such signs shall be removed within 48 hours following the election.

(1) Political candidate or election issue signs up to 32 square feet in size, when located on their own rented or leased space of a vacant lot not in residential zoning, but within a use zone allowing on-site advertising, may be displayed four weeks prior to an election, but must be removed within 48 hours following the election.

(2) With permission of the property owner, or the adjacent property owner, political candidate or election issue signs may be placed on private property or in the boulevard area of the street right-of-way adjacent to private property, two weeks before any election, providing the signs do not exceed 312 square inches in area and are removed the day following the election.

(3) With the permission of the adjacent property owner(s), political or election issue signs not exceeding 32 square feet in size and placed in a vehicle or on a trailer, may park on public streets and in public parking lots, but not in residential zoning, two weeks before any election provided all parking regulations are met and the signs are removed the day following the election.

(B) If the provisions of different chapters, sections or divisions of this chapter conflict with or contravene each other, the provisions of each chapter, section and division shall prevail as to all matters and questions growing out of the subject matter of such chapter, section or division.

(Ord. 216, passed 7-8-2002)

Statutory reference:

Public places; obstructions and encroachments, see SDCL § 9-30-2

CHAPTER 154: ZONING

Section

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GENERAL PROVISIONS

§ 154.01 TITLE AND APPLICATION.

Oldham, SD Code of Ordinances

(A) *Title.* This chapter shall be known and referred to as “the Zoning Ordinance of the City of Oldham, South Dakota.”

(B) *Jurisdiction.* The provisions of this chapter shall apply to all territory within the boundaries of the city, as established on the official zoning map of the city.

(C) *Purpose and intent.*

(1) This chapter is enacted for the purpose set forth and provided for in SDCL Chapters 11-4 and 11-6, that is, among other things to promote the health, safety, peace, comfort, convenience, prosperity, morals and general welfare of the community.

(2) This chapter has been prepared in accordance with the Comprehensive Land Use Plan for the city and is designed to coordinate physical development of the community with needs for public services and facilities.

(3) More specifically, this chapter is adopted in order to achieve the following objectives:

(a) To foster a harmonious, convenient, workable relationship among land uses;

(b) To promote the stability of existing land uses that conform with the Comprehensive Land Use Plan and to protect them from inharmonious influences and harmful intrusions;

(c) To insure that public and private lands ultimately are used for the purposes which are most appropriate and most beneficial from the standpoint of the community as a whole;

(d) To prevent excessive population densities and overcrowding of the land with structures;

(e) To foster the provision of adequate off-street parking and off-street truck loading facilities;

(f) To facilitate the appropriate location of community facilities and institutions;

(g) To protect and enhance real estate values;

(h) To safeguard and enhance the appearance of the community, including natural amenities; and

(i) To place the power and responsibility of the use of land in the hands of the property owner contingent upon the compatibility of surrounding uses and the Comprehensive Land Use Plan.

(Ord. passed 7-7-2014)

§ 154.02 CHAPTER PROVISIONS.

(A) *Provisions of chapter declared to be minimum requirements.* Wherever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, ordinances, deed restrictions or covenants, the most restrictive or that imposing the higher standards shall govern.

(B) *Effective date.* These regulations shall take effect and be in full force from and after their passage and publication according to law.

(Ord. passed 7-7-2014)

§ 154.03 OFFICIAL ZONING MAP.

(A) *Official zoning map.*

(1) The city is hereby divided into zones, or 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.

(2) The official zoning map shall be identified by the signature of the Council President of the city, attested by the City Finance Officer under the following words: "This is to certify that this is the official zoning map referred to in § 154.03 of the code of ordinances of the City of Oldham, State of South Dakota," together with the date of the adoption of this chapter. The official zoning map shall be on file at the office of the City Council.

(3) If, in accordance with the provisions of this chapter and SDCL Chapter 11-4, as amended, changes are made in district boundaries or other matter portrayed on the official zoning map, such changes shall not become effective until after said changes have been made on the official zoning map by the City Finance Officer or in his or her absence a person designated by the City Council. Any unauthorized change by any person or persons shall be considered a violation of this chapter and punishable as provided under § 154.99.

(4) Regardless of the existence of purported copies of the official zoning map which may from time to time be made or published, the official zoning map, which shall be located in the city offices, shall be the final authority as to the current zoning status of land and water areas, buildings and other structures in the city.

(B) *Changes and/or replacement of official zoning map.*

(1) In the event that the official zoning map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the City Council may by ordinance adopt a new official zoning map, which shall supersede the prior official zoning map. The new official zoning map shall be identified by the signature of the City Council President attested by the City Finance Officer, and bearing the seal of the city under the following words: "This is to certify that this official zoning map supersedes and replaces the official zoning map adopted (date of adoption of map being replaced) as part of the zoning ordinance of the City of Oldham, State of South Dakota."

(2) 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.

(3) Changes to the official zoning map shall require, amendment of this regulation by ordinance, as provided for in § 154.38(F).

(C) *Rules where map designation uncertain.* Where uncertainty exists with respect to the various zoning districts as shown on the official zoning map, the following rules shall apply.

(1) The district boundaries are the centerlines of streets, alleys and highways; rights-of-way, railroad rights-of-way, waterways, lot lines, property lines, quarter section lines, half section lines or full section lines, unless otherwise shown.

(2) Where the designation on the official zoning map indicates the various districts are approximately bounded by lot lines, the lot lines shall be the boundaries of such districts unless boundaries are otherwise indicated on the map.

(3) In unsubdivided property, the zoning district boundary line on the official zoning map may be determined by use of the scale contained on the map.

(D) *Annexation.* Subsequent of the effective date of these regulations, any land annexed into the municipal boundaries of the city shall be automatically placed into the "A" Agricultural Zoning District, unless and until such time as the area is rezoned by amendment of these regulations by ordinance, as provided for in Chapter 3.05, Section 3.05.05 of these regulations.

(Ord. passed 7-7-2014)

§ 154.04 DEFINITIONS.

For the purpose of this chapter, certain terms and words are hereby defined. Words used in the present tense shall include the future; the singular number shall include the plural; and the plural the singular; the word "building" shall include the word "structure," and the word "shall" is mandatory and not discretionary; the word "may" is permissive; the word "person" includes a firm, association, organization, partnership, trust, 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. Any word not herein defined shall be as defined in any recognized Standard English Dictionary.

ACCESSORY USE OR STRUCTURE. As applied to use or structure, means customarily incidental or subordinate to, and on the premises of such use or structure.

ADULT BOOKSTORES. An establishment having, as a substantial portion of its stock in trade, books, magazines, films or videotapes for sale or viewing on the premises by use of motion picture devices or other coin-operated means, and other periodicals which are distinguished by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas as such terms are defined in this section, or an establishment with a segment or section devoted to the sale or display of such material. **ADULT BOOKSTORES** may alternatively or in conjunction with the above stock in trade sell undergarments and other clothing designed for the display of specified anatomical areas or for the enhancement of specified sexual activities. Further, an **ADULT BOOKSTORE** may alternatively or in conjunction with the above stock in trade sell prosthetic devices, dolls, candles, vibrators and other objects for sexual gratification which take the form of specified anatomical areas and for the purpose of enhancing specified sexual activities.

ADULT ENTERTAINMENT FACILITY. An establishment offering to its patrons, as entertainment, any exhibition or display or any theatrical or other five performances which include topless or go-go dancers, exotic dancers, strippers, male or female impersonators, or similar entertainers, or any persons singing, reading, posing, modeling or serving food or beverages, where the exhibition, performance, display or dance is intended to sexually arouse the entertainer or the patrons, or where the attire

of persons involved is such as to expose specified anatomical areas, as defined in this section.

ADULT MOTION PICTURE THEATER. An enclosed building, regardless of its seating capacity which is used to present for public view on the premises, films, movies, previews, trailers or advertisements which are distinguished by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in this section.

ADULT PHOTO STUDIO. An establishment which, on payment of a fee, provides photographic equipment and/or models for the purpose of photographing "specified anatomical areas" as herein defined.

ADULT USE. Includes adult entertainment facility, adult bookstores, adult motion picture theaters and adult photo studios as defined in this section.

AIRPORT. A place where aircraft can land and take off, usually equipped with hangers, facilities for refueling and repair, and various accommodations for passengers, including heliports.

ALLEY. A minor way, dedicated to public use, which is used primarily for vehicular access to the back or side of properties otherwise abutting on a street.

AGRICULTURE. The cultivation of the soil and all activities incident thereto, except that the term shall not include the raising and feeding of hogs, sheep, goats, cattle, poultry or fur-bearing animals.

ANIMAL UNIT. One animal unit is equivalent to 1.0 beef cow, steer, feeder or fat beef animal, 0.5 horse, 0.7 dairy cow, 1.7 swine, 6.7 sheep/goats, 55 turkeys, 5 ducks/geese, 33 hens, cockerels, capons, broilers.

APARTMENT HOUSE. A detached dwelling designed for, or occupied by, four or more family units.

AUTOMOBILE SERVICE STATION. Buildings and premises where gasoline, oil, grease, batteries, tires and automobile accessories may be supplied and dispensed at retail. This definition does not include storage, body repair or auto salvage operations.

BAR/LOUNGE. An establishment that is licensed to sell alcoholic beverages by the drink.

BASEMENT. Any floor level below the first story in a building, except that a floor level in a building having only one floor level shall be classified as a **BASEMENT**, unless such floor level qualifies as a first story as defined herein.

BED AND BREAKFAST (B&B). A private single-family residence, which is used to provide limited meals and temporary accommodations for a charge to the public. Such establishments should be located where there will be minimum impact on surrounding residential properties and should comply with the following provisions.

(1) **B&Bs** shall be limited to residential structures with an overall minimum of 1,800 square feet of floor. Preference will be given to structures with historic or other unique qualities.

(2) They shall be in compliance with applicable state laws including registration with the State Department of Health, maintaining a guest list, and providing a smoke detector in each sleeping room.

(3) Accessory use signs shall be based on similar requirements for a home occupation permit and shall not be more than one square foot in area.

(4) Such uses shall be an incidental use with an owner occupied principle dwelling structure provided that not more than four bedrooms in such dwelling structure shall be used for such purpose.

(5) Off-street parking requirements shall be one space per guestroom and shall be in addition to parking requirements for the principle use. Off-street parking shall not be located in a required front or side yard and screening shall be required when adjacent to residentially used property.

(6) The length of stay shall not exceed 14 days during any 120-day consecutive period.

(7) Meals shall be limited to breakfast, which is prepared in a common facility (household kitchen). Meals may be served only to overnight registered guests and cooking is not permitted in the sleeping rooms.

(8) The building shall meet all building codes and zoning requirements. A site plan showing the location of guest parking spaces and floor plan showing a location of the sleeping rooms, lavatories and bathing facilities, and kitchen shall be submitted with application.

BLOCK. An area of land within a subdivision that is entirely bounded by streets, or by streets and the exterior boundary or boundaries of the subdivision, or a combination of the above with a river, lake or rail line.

BOARDING HOUSE. A building other than a motel, hotel or restaurant, where lodging and meals are provided for three or more persons, but not exceeding ten persons, and not open to public or transients.

BUFFER. The use of land, topography, space, fences or landscape planting to partially screen a use or activity from, another property and thus reduce undesirable views or influences.

BUILDABLE AREA. The portion of the lot that can be occupied by the principal use, thus excluding the front, rear and side yards.

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.

BUILDING HEIGHT. The vertical distance from the established average sidewalk grade or street grade, or finished grade at the building line, whichever is the highest, to the highest point of the building.

BUILDING LINE. A line on the lot running parallel to the required horizontal distance from the nearest property line.

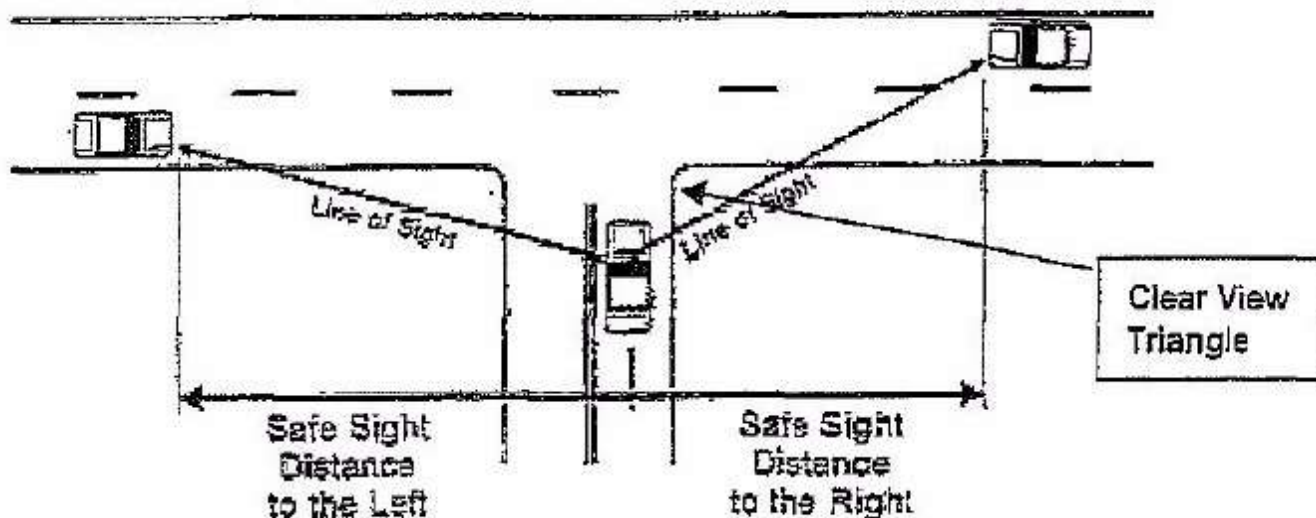
CAMPGROUND. A plot of ground for public use upon which two or more campsites are located, established; maintained, advertised or held out to the public, to be a place where camping units can be located and occupied as temporary living quarters. **CAMPGROUNDS** for tent trailers and recreational vehicles shall be sited with consideration for access to the property. The **CAMPGROUND** shall be designed to minimize the impact from adjacent major thoroughfares.

CAR WASH. A facility used to clean the exterior, and sometimes the interior, of automobiles.

CARETAKER'S RESIDENCE/WATCHMAN'S QUARTERS. A dwelling unit which is occupied by one who is employed by a business located on the same premises or within the same structure as said dwelling unit.

CHURCH. A building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose.

CLEAR VIEW TRIANGLE. A triangular-shaped portion of land established at street intersections and ingress/egress points in which there are restrictions on things erected, placed or planted which would limit or obstruct the sight distance of motorists entering or leaving the intersection (see illustration below).



COMMERCIAL STORAGE, MINI-STORAGE FACILITIES. Individual locker storage facilities (frequently with some accessory outdoor vehicle/boat storage) primarily for the benefit of residential or small business users in which are kept household items, business records, vehicles, recreational equipment and the like.

COMPREHENSIVE PLAN. The adopted long-range plan intended to guide the growth and development of the city.

CONDITIONAL USE. A use that would not be appropriate generally or without restriction throughout the zoning district by which if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, morals, order, comfort, convenience, appearance, prosperity or general welfare. Such uses may be permitted by the Board of Adjustment when specific provision is made in this chapter. **CONDITIONAL USES** are subject to evaluation and approval by the Board of Adjustment and are administrative in nature.

CONDOMINIUM. The ownership of single units in a multi-unit residential structure with common elements (with the property subject to the condominium regime established pursuant to SDCL § 43-15A).

CONSTRUCTION. Any clearing of land, excavation or other action that would adversely affect the natural environment of the site or route but does not include changes needed for temporary use of sites or routes for non-utility purposes, or uses in

securing survey or geological data, including necessary borings to ascertain foundation conditions.

CONTRACTOR SHOPS AND STORAGE YARDS. Those facilities to include structures and land areas where the outdoor storage of equipment and supplies used for various types of off-site construction are stored. Examples of equipment and supplies include, but are not limited to, the following road construction, building construction, gravel operations and general contracting services.

CONVENIENCE STORE. Any retail establishment offering for sale pre-packaged food products, household items, and other goods commonly associated with the same, at which a customer typically purchases only a few items during a short visit.

COURT. An open unoccupied space bounded on two or more sides by the exterior walls of a building or buildings on the same lot.

DAY CARE CENTER. Any operation, which provides childcare services. To be considered a **DAY CARE CENTER** under these regulations, the State of South Dakota must license such operation.

DENSITY. The number of families, individuals, dwelling units or housing structures per unit of land.

DEVELOPMENT. The carrying out of any surface or structure construction, reconstruction or alteration of land use or intensity of use.

DWELLING. Any building or part thereof which is designed or used exclusively for residential purposes by one or more human beings either permanently or transiently.

DWELLING, FARM. Any dwelling located on a farming operation, which is used or intended for use as a residence by the farm's owner, relative of the owner, or a person employed on the premises.

DWELLING, MULTIPLE-FAMILY. A residential building designed for or occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units provided.

DWELLING, SINGLE-FAMILY. A detached residential dwelling building, other than a manufactured home but to include modular homes, designed for and occupied by one family only.

DWELLING, TWO-FAMILY. A residential building containing two household units, designed for occupancy by not more than two families.

DWELLING UNIT. One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly or longer basis, and physically separated from any other rooms or dwelling units which may in the same structure, and containing independent cooking and sleeping facilities.

ELECTRONIC MESSAGE SIGN. A sign whose message may be changed at intervals by electronic process or remote control and whose only movement is the periodic changing of information having a constant light level.

ENGINEER. Any engineer licensed by the State of South Dakota.

EVERGREEN OR CONIFEROUS TREE. Any cone-bearing shrub or tree and any plant that retains its foliage throughout the year which is a minimum height of four feet measured above immediate ground level.

EXTENDED HOME OCCUPATION. A home occupation conducted outside of the residence and/or in an accessory building. See Chapter 4.19.

FAMILY. One or more individuals living, sleeping, cooking or eating on the premises as a single housekeeping unit; but it shall not include a group or more than five individuals not related by blood or marriage.

FARM. A bona fide business for the production of agricultural products and the incidental use of horses, dogs or other animals and other similar operations; but specifically excluding greenhouses, horticultural nurseries and kennels and other similar commercial operations.

FEEDLOT. A lot, yard, corral, building or other area where animals have been, are, or will be stabled or confined for a total of 45 days or more during any 12-month period, and where crops, vegetation, forage growth or post harvest residues are not sustained over any portion of the lot or facility.

FENCE. A structure used as a boundary, screen, separation, means of privacy, protection or confinement, and is constructed of wood, plastic, metal, wire mesh, masonry or other similar material and is used as a barrier of some sort.

FILLING STATION. Buildings and premises where gasoline, oil, grease, batteries, tires and automobile accessories may be supplied and dispensed at retail, but where the following activities are not carried out as a normal part of doing business:

- (1) Major mechanical work, involving removal of the head or crankcase;
- (2) Auto body work, including straightening of auto body parts;
- (3) Painting or welding of any automobile parts;
- (4) Storage of automobiles not in operating condition; and
- (5) Any other automobile work which involves noise, glare, fumes, smoke or other characteristics not normally found at places which sell gasoline at retail.

FLAMMABLE LIQUIDS. Any liquid which gives off flammable vapors, as determined by the flash point from an open-cup tester as used for test of burning oils, at or below a temperature of 80°F, is flammable.

FLASHING SIGN. Any illuminated sign that has artificial light or color which is not maintained at a constant intensity or color when such sign is in use. A sign providing public service information, such as time, weather, date, temperature or similar information, shall not be considered a **FLASHING SIGN**.

GAME LODGE. A building or group of two or more detached, or semi-detached or attached buildings occupied or used as a temporary abiding place of sportsmen, hunters and fishermen, who are lodged with or without meals, and in which there are sleeping quarters.

GARAGE, PRIVATE. An accessory building used for the storage of not more than four vehicles owned and used by the occupant of the building to which it is necessary. Vehicles include cars, pickups and boats, but not commercial vehicles.

GARAGE, PUBLIC. A building or portion thereof, other than a private or storage garage, designed or used for equipping, servicing, repairing, hiring, selling, storing or parking motor-driven vehicles. The term "repairing" shall not include an automobile body repair shop nor the rebuilding, dismantling or storage of wrecked or junked vehicles.

GARAGE, STORAGE. Any building or premises, used for housing only motor-driven vehicles, other than trucks and commercial vehicles.

GOVERNMENTAL AGENCY. An organized entity which, in addition to having governmental character, has sufficient discretion in the management of its own affairs to

distinguish it as separate from the administrative structure of any other governmental unit. This definition shall be deemed to include, but is not limited to the city, Kingsbury County, the State of South Dakota, and any public school district serving the city.

GRADE. The finished grade of premises improved by a building or structure is the average natural elevation or slope of the surface of the ground within 50 feet of the building or structure.

GREENHOUSE. A building whose roof and sides are made largely of glass regulated for the cultivation of delicate or out-of-season plants for subsequent sale or for personal enjoyment.

GROUP HOME. A supervised living or counseling arrangement in a family home context providing for the 24-hour care of children or adults.

HEIGHT OF BUILDING. The vertical distance from the established average sidewalk grade of street grade, or finished grade at the building line, whichever is the highest, to the highest point of the building.

HIGH VOLTAGE TRANSMISSION LINE. A conductor of electric energy and associated facilities.

HOME OCCUPATION. An occupation conducted in a dwelling unit, provided that the occupation is clearly secondary to the main use of the premises as a dwelling and does not change the character thereof or have any exterior evidence of such secondary use and:

- (1) No person other than members of the family residing on the premises shall be engaged in such occupation;
- (2) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinated to its use for residential purposes by its occupants, and not more than 25% of the floor area of the dwelling unit shall be used in the conduct of the home occupation;
- (3) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign, not exceeding two square-foot in area, non-illuminated and mounted flat against the wall of the principle building;
- (4) No equipment or process shall be used in such home occupation, which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the lot in the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises;
- (5) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood and any need for parking generated by the conduct of such home occupation shall be met off the street; and
- (6) Notwithstanding the preceding standards, any operation that provides care for more than 12 children in a 24-hour period shall not be considered a **HOME OCCUPATION.**

HOUSEHOLD UNIT. One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly or longer basis, and physically separated from any other

rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities.

HOTEL or MOTEL. A building designed for occupancy as the more or less temporary abiding place of individuals who are lodged with or without meals, in which there are four or more guest rooms, and which is open to the public and transients.

JUNK YARD. The use of more than 50 square feet of any land, building or structure, whether for private or commercial purposes, or both, where waste discarded or salvaged materials such as scrap metals, used building materials, used lumber, used glass, discarded vehicles, paper, rags, rubber, cordage, barrels, machinery and the like, or parts thereof with or without the dismantling, processing, salvage, sale or other use or disposition of the same.

KENNEL. Any place where more than one dog or cat over four months of age are owned, boarded, raised, bred or offered for sale.

LARGE WIND ENERGY CONVERSION SYSTEM or LWECS. All WES facilities excluding small wind energy conversion systems.

LIGHT MANUFACTURING. Those manufacturing processes which are not obnoxious due to dust, odor, noise, vibration, pollution, smoke, heat or glare. These commercial and industrial uses are characterized by generally having all aspects of the process carried on within the building itself.

LOADING SPACE, OFF-STREET. Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled. Required **OFF-STREET LOADING SPACE** is not to be included as off-street parking space in computation of required off-street parking space.

LOT. A parcel or tract of land having specific boundaries and which has been recorded in the Register of Deeds office. A **LOT** shall include only one principal building together with its accessory buildings; open spaces and parking spaces required by these regulations and shall have its principal frontage upon a road or other approved access.

LOT FRONTAGE.

(1) The front of a lot shall be construed to be the portion nearest the street.

(2) For the purposes of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered **FRONTAGE**.

(3) Minimum frontage for lots located on cul-de-sacs shall be determined as the average of the widest and narrowest width of the lot.

LOT MEASUREMENTS.

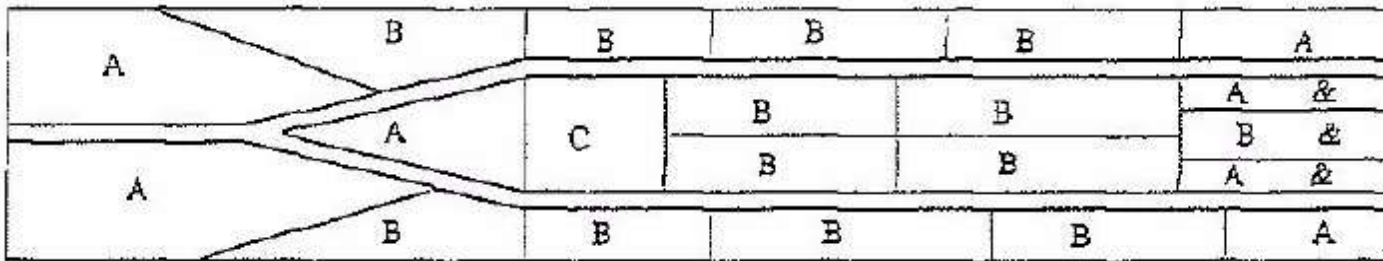
(1) Depth: the average mean horizontal distance between the front and rear lot lines;

(2) Width: the width of a lot at the front yard line; and

(3) Area: the lot area is the area of a horizontal plane in square feet or acres within the lot line.

LOT OF RECORD. A lot which is part of a subdivision recorded in the office of the Kingsbury County Register of Deeds, prior to the adoption of this chapter.

LOT TYPES. See figure below.



(1) **CORNER LOT.** A lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a **CORNER LOT** if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees (Lot A).

(2) **INTERIOR LOT.** A lot other than a corner lot with only one frontage on a street (Lot B).

(3) **REVERSED FRONTAGE LOT.** A lot on which the frontage is at right angles or approximately right angles (interior angle less than 135 degrees) to the general pattern in the area. A **REVERSED FRONTAGE LOT** may also be a corner lot (Lots A and D in the diagram), an interior lot (Lot B and D in the diagram) or through lot (Lots C and D in the diagram).

(4) **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 (Lot C).

MANUFACTURED HOME. See § 154.61.

MANUFACTURED HOME PARK. See § 154.20.

MANUFACTURED HOUSING.

(1) **ANCHORING SYSTEM.** An approved system of straps, cables, turnbuckles, chains, ties or other approved materials used to secure a manufactured or mobile home.

(2) **ANSI/NFPA 501A STANDARDS FOR INSTALLATION OF (MANUFACTURED) MOBILE HOMES.** Model national standards (including all authorized successor documents) for installation of manufactured and mobile homes, as adopted and copyrighted by the National Fire Protection Association and Manufactured Housing institute.

(3) **EXPANDO UNIT.** An expandable manufactured housing unit.

(4) **FOUNDATION SIDING/SKIRTING.** A type of wainscoting constructed of fire and weather resistant material, such as aluminum, asbestos board, treated pressed wood or other approved materials, enclosing the entire undercarriage of the manufactured.

(5) **PERMANENT FOUNDATION.** Any structural system for transporting loads from a structure to the earth at a depth below the established frost line without exceeding the same bearing capacity of the supporting soil.

(6) **PERMANENT PERIMETER ENCLOSURE.** A permanent structural system completely enclosing the space between the floor joists of the home and the ground.

(7) **SECTION.** A unit of a manufactured, home at least ten body feet in width and 30 feet in length.

(8) **SUPPORT SYSTEM.** A pad or combination of footings, piers, caps, plates and shims, which, when properly installed, support the manufactured or mobile home.

MINING. The excavation of earth materials for the purpose of sale.

MODULAR HOME. See § 154.61.

MOVED-IN BUILDING. A building that previously existed on a lot of different location relocated for use as a residence, out-building, commercial, industrial or any building used in relation to these uses shall be recognized as a **MOVED-IN BUILDING**.

MOTEL/HOTEL. A building or group of buildings used primarily for the temporary residence of motorists or travelers.

NONCONFORMING USE. Any building or structure, or land lawfully occupied by a use at the time of passage of this chapter or amendment which does not conform after the passage of this chapter or amendment with the use regulation of the district in which it is situated.

NON-STANDARD USE. The category of nonconformance consisting of lots occupied by buildings or structures or uses which existed immediately prior to the effective date of this chapter which fail to comply with any of the following: minimum lot requirements for the area, density, width, front yard, side yard, rear yard, height, unobstructed open space or parking for the district in which they are located, even though the use of the premises conforms to the permitted uses within the district as set out in the provisions of this chapter.

OUTDOOR ADVERTISING BUSINESS. Provisions of outdoor displays or display space on a lease or rental basis only.

PARCEL. A single tract of land, located within a single block, which at the time of filing for a building permit, is designated by the owner or developer as a tract to be used, developed or built upon as a unit, under single or unified ownership or control, and assigned to the particular use, building or structure, for which the building permit are issued and including such area of land as may be required by the provisions of this chapter for such use, building or structure.

PARKING SPACE. A space for parking of automobiles which has a minimum width of nine feet and a minimum length of 19 feet.

PARKING SPACE, OFF-STREET. An off-street parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides, together with related access to a public street or alley, and maneuvering room. For purposes of rough computation, an **OFF-STREET PARKING SPACE** may be estimated at 300 square feet.

PERMIT. A permit required by these regulations unless stated otherwise.

PERMITTED USE. Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

PERSON. In addition to an individual, includes the following terms: "firm," "association," "organization," "partnership," "trust," "company" or "corporation" joint

venture, public service company, cooperative, political subdivision, municipal corporation, government agency, public utility district or any other entity, public or private, however organized.

PERSONAL SERVICES. These establishments offer a wide range of personal services (laundry, hair care and the like).

PLANNING COMMISSION. The members of the City Council serving in an advisory capacity on planning and zoning matters.

PLAT. The map, drawing or chart on which the subdivider's plan of subdivision is legally recorded.

PRINCIPAL USE. The primary use to which the premises are devoted.

RECREATIONAL VEHICLE. A motor home, travel trailer, truck camper or camping trailer, with or without motor power, designed for human habitation for recreational or emergency occupancy. A **RECREATIONAL VEHICLE** does not include manufactured homes.

RELIGIOUS INSTITUTION. Any building used for non-profit purposes by an established religious organization holding either tax exempt status under § 501(c)(3) of the Internal Revenue Code or under the state property tax law, where such building is primarily intended to be used as a place of worship. The term includes, but is not necessarily limited to: church; temple; synagogue; and mosque.

ROUTE. The location of a high voltage transmission line between two end points. The **ROUTE** may have a variable width of up to 1.25 miles.

SALE OR AUCTION YARD OR BARN. A place or building where the normal activity is to sell or exchange livestock. Livestock normally in yard or farm for one day during sale or auction.

SANITARY LANDFILLS. Method of waste disposal involving the dumping and daily covering of waste material all in compliance with state regulations.

SCALE OR AUCTION YARD/BARN. A place or building where the normal activity is to sell or exchange livestock. Livestock normally in yard or farm for one day during sale or auction.

SERVICE STATION, AUTOMOBILE. Any building or premises which provides for the retail sale of gasoline, oil, tires, batteries, and accessories for motor vehicles and for certain motor vehicle services, including washings, tire changing, repair service, battery service, radiator service, lubrication, brake service, wheel service, and testing or adjusting of automotive parts. Automobile repair work may be done at a **SERVICE STATION**, provided that no rebuilding of engines, spray paint operations or body or fender repair is permitted. Gasoline pumps and gasoline pump islands shall be located more than 12 feet from the nearest property line.

SETBACK. The setback of a building is the minimum horizontal distance between the front line or street fine and the nearest edge of any building or any projection thereof, except cornices and unenclosed porches, and entrances vestibules and window bays projecting not more than three and one-half feet from the building and not more than 50 square feet in area, and which do not extend above the first story of the building.

SCREENING. Earthforms, walls, fences, plant material or other structures or devices intended to partially obscure, conceal or protect from off-site view.

SHEET SIDING. Any siding material customarily installed as a sheet and composed of galvanized, painted or bonded metal, and customarily installed in a vertical manner but also capable of being installed horizontally.

SHOPPING CENTER. Retail buildings of greater than 100,000 square feet and designed for more than one tenant.

SIGN.

(1) Any object, device or structure, or part thereof, situated outdoors or visible from outdoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location, by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination or projected images.

(2) This definition does not include:

(a) National or state flags or their emblem or insignia, interior window displays, athletic scoreboards, or the official announcements or signs of government;

(b) Signs not exceeding one square foot in area and bearing only property numbers, post box numbers, names of occupants of premises, or other identification of premises not having commercial connotations;

(c) Legal notices, identification, information or directional signs erected or required by governmental bodies;

(d) Integral decorative or architectural features of buildings, except letters, trademarks, moving parts or moving fights; and

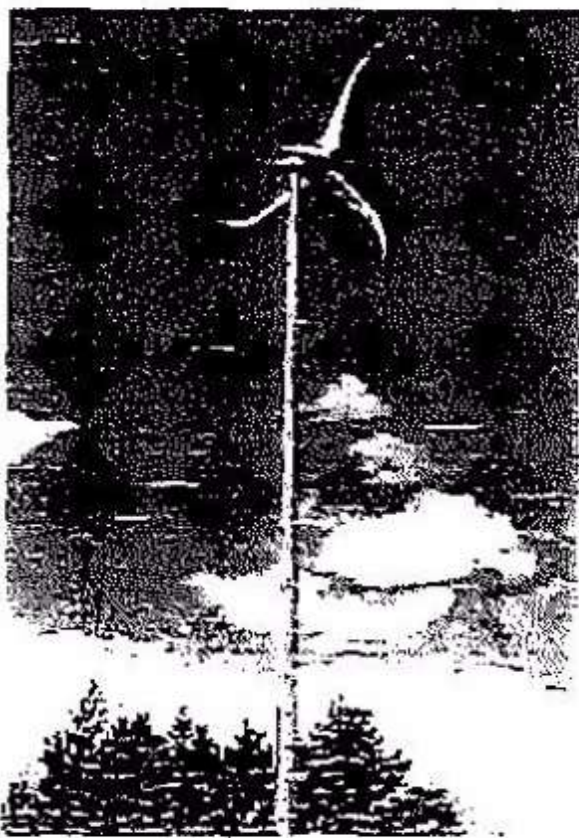
(e) Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.

SIGN (OFF-PREMISES). A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered at a location other than the premises on which the sign is located.

SIGN (ON-PREMISES). A sign which directs attention to a business or profession conducted, or to a commodity or service sold, offered or manufactured, or to an entertainment offered on the premises where the sign is located.

SLEEPING QUARTERS. A room or an area contained within a dwelling unit utilized for the purpose of sleep.

SMALL WIND ENERGY CONVERSION SYSTEM or **SWECS.** A WES facility with a single tower height of less than 90 feet used primarily for on-site consumption of power. See graphic below.



SPECIFIED ANATOMICAL AREAS.

(1) Less than completely and opaquely covered human or animal genitals, pubic region or pubic hair, buttocks; and female breasts below a point immediately above the top of the areola; and

(2) Genitals of humans or animals in a discernible turgid state, even if completely opaquely covered.

SPECIFIED SEXUAL ACTIVITIES.

(1) Human or animal genitals in the state of sexual stimulation or arousal;

(2) Acts or representations of acts of human or animal masturbation, sexual intercourse or sodomy, bestiality, oral copulation or flagellation;

(3) Fondling or erection touching of human or animal genitals, pubic region, buttock or female breast; and

(4) Excretory functions as part of or in connection with any activities set forth in an adult bookstore or "adult entertainment facility."

STABLE. A building for the shelter and feeding of domestic animals, especially horses and cattle.

STABLE, COMMERCIAL. A building for the shelter and feeding of domestic animals, especially horses and cattle where such domestic animals are raised, trained,

boarded, harbored or kept for remuneration. Veterinary clinics, animal hospitals and animal shelters are specifically excluded.

STAND, ROADSIDE. A structure for the display and sale of products with no space for customers within the structure itself.

STORY. The portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost **STORY** shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above, if the finished floor level directly above a basement or unused under-floor space is more than six feet above grade for more than 50% of the total perimeter or is more than 12 feet above grade at any point, such basement or unused under-floor space shall be considered as a **STORY**.

STORY, FIRST. The lowest story in a building which qualifies as a story, except that a floor level in a building having only one floor level shall be classified as a first story, provided such floor level is not more than four feet below grade for more than 50% of the total perimeter, or more than eight feet below grade at any point.

STREET LINE. A right-of-way line of a street.

STREET. A public right-of-way which affords the principal means of access to abutting property. Also may be referred to as **ROAD** or **HIGHWAY**. The term **STREET** shall include and apply to any public way except alleys.

(1) **ARTERIAL STREET.** A street designated as such upon the Major Street Plan of the Comprehensive Land Use Plan of the city.

(2) **COLLECTOR STREET.** A street designated as such upon the Major Street Plan of the Comprehensive Land Use Plan of the city.

(3) **LOCAL STREET.** Any street which is not an arterial street or collector street.

STRIP MALLS. Retail buildings of less than 100,000 square feet and designed for more than one tenant.

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, manufactured homes, walls, fences, swimming pools, signs, ponds and lagoons.

STRUCTURE, TEMPORARY. Anything constructed or erected, or placed, the use of which requires temporary location on the ground or attached to something having a temporary location on the ground.

SUBDIVISION. The division of a parcel of land into two or more lots or parcels for the purpose of transfer of ownership or building developments (whether immediate or future). This term includes resubdivision and, when appropriate to the context, is related to the process of subdividing or to the land subdivided.

SUBSTANTIALLY COMPLETED. This term refers to the amount of work required to be completed in association with a building permit issued by the city. In order to be **SUBSTANTIALLY COMPLETE**, 75% of the project for which a building permit has been issued is required to be finished.

SYSTEM HEIGHT. The height above grade of the tallest point of the WES, including the rotor radius.

TOWER HEIGHT. The height above grade of the fixed portion of the tower, excluding the wind turbine itself.

TRAILER. Any of the following:

(1) **CAMPER TRAILER.** A canvas, folding structure, mounted on wheels, and designed for travel, recreation and vacation use.

(2) **MOTOR HOME.** A portable, temporary dwelling to be used for travel, recreation and vacation, constructed as an integral part of a self-propelled vehicle.

(3) **PICK-UP COACH.** A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation and vacation.

(4) **TRAVEL TRAILER.** A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational and vacation uses. The trailer shall be permanently identified **TRAVEL TRAILER** by the manufacturer of the trailer and, when factory equipped for the road, it shall have a body width not exceeding eight feet, and a body length not exceeding 30 feet.

TURBINE. The parts of the WES including the blades, generator and tail.

TWIN HOMES. A two-family dwelling which has a common wall and is platted into two separate lots.

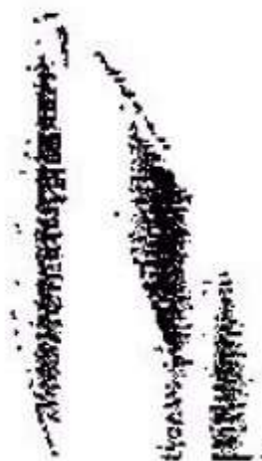
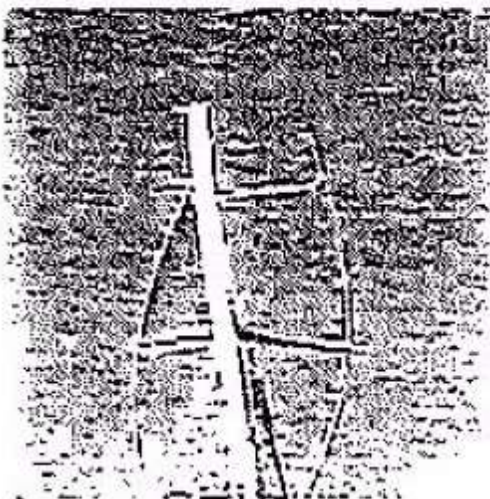
USE. The purpose for which land or premises or a building thereof is designated, arranged or intended, or for which it is or may be occupied or maintained.

UTILITY. Any entity engaged in this state in the generation, transmission or distribution of electric energy including, but not limited to, a private investor owned utility, cooperatively owned utility, and a public or municipal utility.

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 this chapter would result in unnecessary and undue hardship. As used in this chapter, 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 nonconforming in the zoning district or uses in an adjoining zoning district.

VERTICAL AXIS WIND TURBINE. Have the main rotor shaft arranged vertically and shall be used only for the purpose of generating power for the property on which the vertical axis wind turbine is located, or for the purpose of transmitting power to the electrical grid of an electric utility company through an approved interconnection.

VERTICAL AXIS WIND TURBINES are either mounted on a tower, close to the ground, or directly on building roofs. See following graphics.



VETERINARY CLINIC. A commercial activity catering to the medical needs of animals and having no outside runs.

WASTE. Any garbage, refuse, manure, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded materials, including solid, liquid, semi-solid or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solid or dissolved materials in domestic sewage or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under § 402 of the Federal Water Pollution Control Act, as amended to January 1, 1986, or source, special nuclear or by-product materials as defined by the Atomic Energy act of 1954, as amended.

WATCHMAN'S QUARTERS. See **CARETAKER'S RESIDENCE/WATCHMAN'S QUARTERS.**

WHOLESALE MERCHANDISING/TRADE. Establishments or places of business primarily engaged in selling merchandise to retailers to industrial, commercial, institutional or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

WETLANDS. Any area where ground water is at or near the surface at least six months of the year; the boundary of which shall be defined as that area where the emergent aquatic vegetation ceases and the surrounding upland vegetation begins.

WIND ENERGY CONVERSION SYSTEM or WECS. An aggregation of parts including the base, tower, generator, rotor, blades, supports, guy wires and accessory equipment such as utility interconnections, battery banks and the like in such a configuration as necessary to convert the power of wind into mechanical or electrical

energy. **WECS** are also known as **WIND CHARGERS**, **WINDMILLS** or **WIND TURBINES**.

YARD. An open space on the same lot with a building or group of buildings, which open space lies between the building or group of buildings and the nearest lot line.

YARD, FRONT. A yard extending between the side lot lines across the front of a lot adjoining a public right-of-way.

(1) In the case of corner lots which do not have reversed frontage, a **FRONT YARD** of the required depth shall be provided in accordance with the prevailing yard pattern, and a second front yard of half the depth required generally for front yards in the districts shall be provided on the other frontage.

(2) In the case of reversed frontage corner lots, a **FRONT YARD** of the required depth shall be provided on either frontage, and a second front yard of half the depth required generally for front yards in the district shall be provided on the other frontage.

(3) In the case of corner lots with more than two frontages, the Administrative Official shall determine the front yard requirements, subject to the following limitations:

(a) At least one front yard shall be provided having the full depth required generally in the district; and

(b) No other front yard on such lot shall have less than half the full depth required generally.

(4) Depth of required **FRONT YARDS** shall be measured at right angles to a straight line adjoining the foremost points of the side lot lines. The foremost point of the side lot line, in the case of rounded property corners at street intersections, shall be assumed to be the point at which the side and front lot lines would have met without such rounding. Front and rear front yard lines shall be parallel.

YARD LINE. See **LOT LINE**.

YARD, REAR. A yard across the whole width of the lot, extending from the rear line of the building to the rear line of the lot. In the case of through lots and corner lots, where there will be no **REAR YARDS**, but only front and side yards.

YARD, REQUIRED. The portion of a side, front or rear yard nearest the designated lot line and having the width or depth required in the district in which located.

YARD, SIDE. A yard between the building and the adjacent sideline of the lot, which separates it from another lot, extending from the front lot line to the rear yard. In the case of through lots and corner lots, **SIDE YARDS** remaining after the full and half-depth front yards have been established shall be considered side yards.

ZERO LOT LINE. The location of a building on a lot in such a manner that the side of a building rests on a lot line.

ZONING DISTRICT. A section of the city for which the regulations governing the use of land, the construction and use of buildings and the occupancy of premises are hereby made.

(Ord. passed 7-7-2014)

DISTRICT REGULATIONS

§ 154.15 APPLICATION OF DISTRICT REGULATIONS.

(A) *Applicability of 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, except as hereinafter provided.

(B) *Compliance: generally.* No building, or any part thereof shall hereafter be used or occupied, and no building or any part thereof shall be erected, constructed, reconstructed, converted, altered, enlarged, extended, raised, moved or used, and no premises shall be used for any purpose other than a purpose permitted in the zoning district in which said building or premises is located, except as hereinafter provided.

(C) *Structures and lots; construction or alteration; limitations of.*

(1) No building or other structure shall hereafter be erected or altered:

- (a) To exceed the height or bulk;
- (b) To accommodate or house a greater number of families;
- (c) To occupy a greater percentage of lot area; and
- (d) To have narrower or smaller rear yards, front yards, side yards or other open spaces than herein required; or in any other manner contrary to the provisions of this chapter.

(2) No yard or lot existing at the time of passage of this chapter shall be reduced in dimension or are below the minimum requirements set forth herein. Yards or lots created after the effective date of this chapter shall meet at least the minimum requirements established by this chapter.

(Ord. passed 7-7-2014)

§ 154.16 NONCONFORMING USES.

(A) *Intent.*

(1) Within the zoning districts established by this chapter or amendments that may later be adopted there exist lots, structures, uses of land and structures, and characteristics of use which were lawful before this chapter was passed or amended, but which would be prohibited, regulated or restricted under the terms of this chapter or future amendment. It is the intent of this chapter to permit these nonconformities to continue until they are removed, but not to encourage their survival.

(2) Nonconforming uses are declared by this chapter to be incompatible with permitted uses in the zoning districts involved. A nonconforming use of a structure, a nonconforming use of land or a nonconforming use of structure and land in combination shall not or enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

(3) 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 adoption or amendment of this chapter.

(4) **CONSTRUCTION** is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been

substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

(B) *Repairs and maintenance.*

(1) 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 non-bearing walls, fixtures, wiring or plumbing to an extent not exceeding 10% of the current 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.

(2) 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) *Uses and structures.* A lawful use or structure existing at the time this chapter is adopted or amended may continue even though such use does not conform to the district regulations subject to the following provisions.

(1) Whenever, a nonconforming use or structure has been changed to a conforming use, it shall not be changed back to a nonconforming use.

(2) If any nonconforming building is destroyed or damaged by any casualty, such building may be repaired or replaced and use continued providing said reconstruction shall not add to the nonconformity or add to the cubic contents of said building as the same existed at the time of such casualty; and provided further that such repair or reconstruction of such building shall begin within six months after such casualty and completed within a reasonable time thereafter. However, if the damage caused by such casualty is such as to cause a loss in value exceeding 50% of the replacement value immediately prior to such casualty, then it cannot be rebuilt for a nonconforming use. The loss in value shall be computed as the difference between the actual cash value of the structure immediately before and after the casualty. Cash value shall be the same as that used for insurance purposes as approved by the State Insurance Code.

(3) When a nonconforming use or structure is discontinued for a period of one year, it shall not be continued unless in conformance with the requirements of this chapter and SDCL § 11-6-39.

(4) Any nonconforming use may be extended throughout any part of a structure, which was arranged or designed for such use previous to the adoption of this chapter, but shall not be extended outside each structure.

(5) No existing nonconforming use or structure shall be enlarged, moved or structurally altered except to change to a permitted use. This is not to include normal repairs and maintenance, which do not enlarge, move or structurally alter a nonconforming use.

(6) Type I and Type II manufactured homes located upon any lot or lots of record at the time of the adoption of this chapter may be replaced by Type I and/or Type II manufactured homes of like dimensions and said replacement shall not be

deemed to have changed the use thereof from a nonconforming to a conforming use. If a replacement Type I and/or Type II manufactured home is of larger dimension than the existing Type I and/or Type II manufactured home, then application must first be made to the City Board of Adjustment for conditional use permit.

(7) Nonstandard uses existing immediately prior to the effective date of this chapter may be continued, although such uses do not conform to the provisions hereof. Nonstandard buildings or structures may be enlarged or extended, converted, reconstructed or structurally altered as follows.

(a) Enlargements, extensions, conversions or structural alterations may be made as required by law or ordinance.

(b) Structural alteration of buildings or structures may otherwise be made if such changes do not further encroach into an existing front yard, side yard or rear yard which is less than the minimum required yards for the district in which they are located. Exception: the Board of Adjustment may allow buildings with side yard setbacks less than required herein to have additions erected in line with the existing building and provided further that said additions will be erected no closer to the lot line than the existing building and the addition shall further conform to all ordinance requirements.

(c) Enlargement, extension, conversion of buildings or structures may otherwise be made if such changes comply with the minimum required yards, lot area, height, landscaping, parking and density for the district in which they are located.

(8) Nothing contained in this section shall be so construed as to abridge or curtail the powers of the City Planning Commission/Board of Adjustment as set forth elsewhere in this chapter.

(D) Uses under conditional use provisions not nonconforming uses. Any use which is permitted as a conditional use in a district under the terms of this chapter (other than a change through Board of Adjustment action from a nonconforming use to another use not generally permitted in the district) shall not be deemed a nonconforming use in such district, but shall without further action be considered a conforming use.

(E) *Nonconforming lots of record.* In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record after the effective date of adoption or amendment of this chapter, notwithstanding limitations imposed by other provisions of this chapter. Such lots must be in separate ownership and not of continuous frontage with other lots in the same ownership.

(1) This provision shall apply even though such a lot fails to meet the requirements of area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than these applying to area or width, or both, of the lot shall conform to the regulations of the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the Board of Adjustment.

(2) If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this chapter, and all or part of the lots do not meet the requirements established for lot width and area, the land involved shall be considered to be an

undivided parcel for the purposes of this chapter, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this chapter, nor shall any division of any parcel be made which creates a lot with width or area below the requirements in this chapter.
(Ord. passed 7-7-2014)

§ 154.17 DISTRICT REGULATIONS.

(A) *Generally.* The district regulations included in this chapter may be qualified or supplemented by additional regulations appearing elsewhere in this chapter.

(1) Any use or uses not expressly permitted in a particular district shall be prohibited, unless such uses are existing at the effective date of these regulations and qualify as nonconforming uses, or unless a conditional use permit is granted as provided for in § 154.38(B). Deviation from zoning district lot, yard and related requirements, and deviation from these zoning regulations, shall be prohibited, unless a variance is granted as provided for in § 154.38(C).

(2) Additional requirements and standards for uses and structures permitted by conditional use permit may be established by the Board of Adjustment as conditions to said conditional use permit.

(B) *Zoning districts.* The following zone and use districts are hereby established for the purposes of administration and enforcement of this chapter.

- (1) "A" Agricultural District;
- (2) "R" Residential District;
- (3) "C" Commercial District; and
- (4) "I" Industrial District.

(Ord. passed 7-7-2014)

§ 154.18 "A" AGRICULTURAL DISTRICT.

(A) *Intent.* The intent of the "A" Agricultural District is to protect agricultural land and uses from incompatible land uses and to prevent premature urban development of certain lands which eventually may be appropriate for urban uses, until the installation of drainage works, streets, utilities and community facilities and until objective projections of appropriate land uses are possible.

(B) *Permitted uses.* The following uses and structures shall be permitted in the "A" Agricultural District:

- (1) Any form of agriculture activity and related farm buildings, but excluding feed lots and sales or auction barns;
- (2) Site-built single-family dwellings;
- (3) Modular homes;
- (4) Type I manufactured homes;
- (5) Public parks and recreation areas; and
- (6) On-premises sign.

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(C) *Permitted accessory uses.* The following accessory uses and structures shall be permitted in the “A” Agricultural District:

- (1) Accessory uses and structures customarily incidental to permitted uses and structures when established within the space limits of this district; and
- (2) Roadside stands for sales of agricultural products grown or produced on the premises.

(D) *Conditional uses.* The following uses may be permitted, as a conditional use in the “A” Agricultural District by the Board of Adjustment subject to such requirements as the Board deems necessary to protect adjacent property, prevent objectionable or offensive conditions and promote the health, safety and general welfare:

- (1) Airports;
- (2) Commercial or private recreation areas such as golf courses, campgrounds, drive in theaters, riding stables, race tracks, swimming pools and the like;
- (3) Private clubs;
- (4) Stables and kennels with outside runs;
- (5) Type II manufactured home;
- (6) Type I manufactured home without permanent foundation;
- (7) Public buildings or facilities erected or established and operated by any governmental agency;
- (8) Telecommunication facilities;
- (9) Home occupations;
- (10) Utility substations;
- (11) Commercial nurseries and greenhouses;
- (12) Veterinary clinics and animal hospitals;
- (13) Cemeteries;
- (14) Horticulture services;
- (15) Railroad and public utilities facilities;
- (16) Kennel;
- (17) Extraction of sand, gravel, minerals and petroleum or natural gas;

and

- (18) Religious institutions.

(E) *Prohibited uses.* All uses and structures not specifically permitted or not permitted by conditional use shall be prohibited in the “A” Agricultural District.

(F) *Area/construction regulations.* Minimum lot area, maximum building height, maximum lot coverage and minimum yard requirements shall be regulated in accordance with the following tables.

	Minimum Lot Area	Minimum Lot Width	Maximum Height
Single-family residential	43,560 sq. ft.	150'	35'
Other conditional uses	To be determined by the Board of Adjustment		
Principal building associated with a tower or steeple	To be determined by the Board of Adjustment		45'
Towers or steeples			75'

	Minimum Front Yard	Minimum Rear Yard	Minimum Side Yard
Conditional uses	To be determined by the Board of Adjustment		
Permitted uses	75'	50'	30'

(Ord. passed 7-7-2014)

§ 154.19 “R” RESIDENTIAL DISTRICT.

(A) *Intent.* The intent of the “R” Residential District is to provide locations for low-density site-built, single-family residential dwellings. Other types of residential dwellings may be permitted based upon complying with site review and adjacent landowner concerns.

(B) *Permitted uses.* The following uses and structures shall be permitted in the “R” Residential District:

- (1) Site-built single-family dwellings;
- (2) Two-family dwellings;
- (3) Modular homes; and
- (4) Public park and recreation areas.

(C) *Permitted accessory uses.* The following accessory uses and structures shall be permitted in the “R” Residential District: accessory uses and structures customarily incidental to permitted uses, except stables.

(D) *Conditional use.* The following uses may be permitted as a conditional use in the “R” Residential District by the Board of Adjustment, subject to such requirements as Board deems necessary to protect adjacent property, prevent objectionable or offensive conditions and promote the health, safety and general welfare:

- (1) Type I manufactured homes;
- (2) Type I manufactured homes without permanent foundation;
- (3) Type II manufactured homes;
- (4) Multiple-family dwellings;
- (5) Bed and breakfast establishments;
- (6) Game lodge;
- (7) Public and private schools;
- (8) Home occupations;
- (9) Hospitals, nursing homes and homes for the aged. Any building approved for such use shall be set back not less than 50 feet from the street on which it fronts and shall have side and rear setbacks of not less than 30 feet and shall meet other requirements of this chapter;
- (10) Commercial or private storage buildings used exclusively for storage and not for performance of any other services;
- (11) Registered or licensed day care homes caring for children, provided that such facilities shall provide not less than 25 square feet of floor area not including halls or bathrooms and adequate outdoor recreation space for each child, in addition, such facilities shall supply adequate off-street parking or other suitable plan for the

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loading and unloading of children so as not to obstruct public streets or create other traffic or safety hazards;

(12) In-home nursing or convalescent homes with up to four additional residents other than immediate family;

(13) Religious institutions, public libraries, museums and schools;

(14) Public utilities and governmental buildings, including substations, regulator substations, pumping stations, radio and television transmitter or tower, transmission lines, water filtration plant and storage reservoir, or other similar public service uses;

(15) Off-street parking permitted in the district, provided that adequate screening is present and that a site plan is approved for any permanent improvements;

(16) Licensed day care centers;

(17) Mortuaries;

(18) Public buildings or facilities established and operated by any governmental agency; and

(19) Truck terminals existing upon the adoption of this chapter.

(E) *Prohibited uses.* All uses and structures not specifically permitted or not permitted by conditional use shall be prohibited in the "R" Residential District.

(F) *Area/construction regulations.* Minimum lot area, maximum building height, maximum fat coverage and minimum yard requirements shall be regulated in accordance with the following tables:

	Minimum Lot Area	Minimum Lot Width	Maximum Height	Maximum Percent Lot Coverage
Churches, synagogues, chapels and other similar places of worship	87,120 square feet (2 acres)	75'	35**	30%
Other conditional uses	To be determined by the Board of Adjustment			
Single-family residence	6,500 square feet	50'	35'	30%
*Maximum height for steeples and towers shall be 75 feet				

	Minimum Lot Area	Minimum Lot Width	Maximum Height	Maximum Percent Lot Coverage
Assisted living, nursing and rest homes and the like	2,000 square feet/dwelling unit	60'	35'	40%
Churches, synagogues, chapels and other similar places of worship	87,120 square feet (2 acres)	75'	35**	30%
Conditional uses	To be determined by the Board of Adjustment			

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Single-family residential	6,500 square feet	50'	35'	30%
Three to four dwelling units	2,500 square feet/dwelling unit	50'	35'	30%
Two dwelling units	3,000 square feet/dwelling unit	50'	35'	30%

	<i>Minimum Front Yard</i>	<i>Minimum Rear Yard</i>	<i>Minimum Side Yard</i>	
			<i>Party Wall Side</i>	<i>Non-Party Wall Side</i>
Assisted living, nursing and rest homes and the like	50'	30'	0'	30'
Conditional uses	To be determined by the Board of Adjustment			
Single-family residential	20'	10'	0'	5'
Three or more dwelling units	20'	20'	0'	7'
Two dwelling units	20'	10'	0'	5'

(G) *Exception to minimum side yard requirement.* The Board of Adjustment may allow side yards to be less than required in the “R” District, provided an appropriate easement is recorded at the Codington County Register of Deeds ensuring that no structures shall hereafter be constructed within a distance two times the minimum required side yard (ten feet) on the affected adjacent property. (Ord. passed 7-7-2014)

§ 154.20 “C” COMMERCIAL DISTRICT.

(A) *Intent.* The intent of the “C” Commercial District is to provide local retail and service uses that serve the day to day needs of residents in convenient and appropriate locations. Uses which may generate more traffic or serve an expanded market area are listed as conditional uses to ensure that such uses are compatible with local traffic volumes and neighboring commercial or residential uses.

(B) *Permitted uses.* The following uses and structures shall be permitted in the “C” Commercial District:

- (1) Retail and wholesale sales;
- (2) Finance, insurance and real estate services;
- (3) Business services excluding any warehousing and storage

services;

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(4) Religious institutions, welfare and charitable services, business associations, professional membership organizations, labor unions and similar labor organizations, and civic, social and fraternal associations;

(5) Eating and drinking places;

(6) Communication and utility uses;

(7) Public buildings and grounds;

(8) Personal service establishments;

(9) Indoor recreational facilities and gymnasiums;

(10) Bed and breakfasts;

(11) Theaters, bowling alleys and pool halls;

(12) Professional, governmental and education services;

(13) Museum;

(14) Printing and publishing establishments;

(15) Parking lot and/or garage;

(16) Bakery;

(17) Offices; and

(18) On-premises sign.

(C) *Permitted accessory uses.* The following accessory uses and structures shall be permitted in the "C" Commercial District: accessory buildings and uses customarily incidental to permitted uses.

(D) *Conditional uses.* The following uses may be permitted as conditional uses in "C" Commercial District by the City Board of Adjustment subject to such requirements, as the Board deems necessary to protect and promote the health, safety and general welfare:

(1) Retail sales of lumber and other building materials (lumberyard), farm equipment, motor vehicles, marine crafts, mobile homes, trailers, feed, farm and garden supplies, fuel;

(2) Truck or bus terminal;

(3) Bar or tavern;

(4) Manufacture or assembly of products and goods;

(5) Wholesale merchandising or storage warehouse;

(6) Licensed day care center;

(7) Multiple-family dwelling;

(8) Hotel/motel;

(9) Establishments manufacturing a product to be sold at retail on premises to the ultimate consumer;

(10) On-off sale liquor establishment;

(11) Automobile filling station;

(12) Automobile repair station;

(13) Commercial storage;

(14) Outdoor storage; and

(15) Caretaker or watchman's quarters.

(E) *Prohibited uses.* All users and structures not specifically permitted or not permitted by conditional use shall be prohibited in the "C" Commercial District.

(F) *Area/construction regulations.*

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(1) Minimum lot area, maximum building height, maximum lot coverage and minimum yard requirements shall be regulated in accordance with the following tables:

	Minimum Lot Area	Minimum Lot Width	Maximum Height	Maximum Percent Lot Coverage
Permitted uses	20,000 square feet	100'	35'	75%
Conditional uses	To be determined by the Board of Adjustment			

	Minimum Front Yard	Minimum Rear Yard		Minimum Side Yard	
		Adjacent to Industrial, Ag or Commercial Districts	Adjacent to Residential Districts	Adjacent to Industrial, Ag or Commercial Districts	Adjacent to Residential Districts
Permitted uses	25'	20'	40'	10'	40'
Conditional uses	To be determined by the Board of Adjustment				

(2) All commercial buildings/structures shall be constructed on-site. Off-site constructed or moved-in structures may be allowed only as a conditional use.

(3) Screening: where any use in the "C" Commercial District is adjacent to any Residential Zone, that use (building, parking or storage) shall be appropriately screened from the Residential Use District by plantings or fencing, except where plantings and/or fencing may be in conflict with § 154.50.
(Ord. passed 7-7-2014)

§ 154.21 "I" INDUSTRIAL DISTRICT.

(A) *Intent.* The intent of the "I" Industrial District is to accommodate industrial uses meeting performance standards designed to protect nearby non-industrial uses from adverse environmental conditions, and to accommodate certain other business uses.

(B) *Permitted uses.* The following uses and structures shall be permitted in the "I" Industrial District:

- (1) Horticulture and the raising of field crops;
- (2) On-premises signs;
- (3) Utility substations;
- (4) Motor freight terminals, garaging and equipment maintenance;
- (5) Contract construction services;
- (6) Storage plants, lumber yards, distributing stations and warehouses;
- (7) Motor freight terminals, garaging and equipment maintenance;

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(8) Light assembly work, machine shops doing assembling or shaping and light cutting and sampling; and

(9) Woodworking shops or plants.

(C) *Permitted accessory uses.* The following accessory uses and structures shall be permitted in the "I" Industrial District: buildings and structures customarily incidental to permitted uses.

(D) *Conditional uses.* The following uses may be permitted as a conditional use in the "I" Industrial District by the Board of Adjustment, subject to such requirements as the Board deems necessary to protect and promote the health, safety and general welfare:

(1) Junk or salvage yards, provided that the area is enclosed or screened from public view as required by the Board of Adjustment;

(2) Slaughterhouse;

(3) Explosive manufacture or storage;

(4) Fertilizer manufacture;

(5) Incineration or reduction of garbage, dead animals, fat or refuse;

(6) Livestock sales or auction barns and yards;

(7) Adult uses (see § 154.56);

(8) Outdoor storage; and

(9) Other industrial or commercial uses determined by the Board of Adjustment to be consistent with the intent of this district, and can meet the performance standards described in division (F) below.

(E) *Prohibited uses.* All uses and structures not specifically permitted or not permitted by conditional use shall be prohibited in the "I" District.

(F) *Area/construction regulations.*

(1) Minimum lot area: maximum building height, maximum lot coverage and minimum yard requirements shall be regulated in accordance with the following tables:

	Minimum Lot Area	Minimum Lot Width	Maximum Height	Maximum Percent Lot Coverage
Conditional uses	To be determined by the Board of Adjustment			
Permitted uses	20,000 square feet	100'	45'	50%

	Minimum Front Yard	Minimum Rear Yard		Minimum Side Yard	
		Adjacent to Industrial, Ag or Commercial Districts	Adjacent to Residential Districts	Adjacent to Industrial, Ag or Commercial Districts	Adjacent to Residential Districts
Conditional uses	To be determined by the Board of Adjustment				
Permitted uses	50'	25'	35'	10'	35'

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(2) Side yards and rear yards abutting any residential district shall be landscaped or fenced in a manner to buffer residential uses.

(3) Storage yards for junk shall be set back a minimum of 100 feet from any adjoining street line and 35 feet from any other property line, and shall be screened by a solid wall at least two feet above the highest stock pile and maintained in a state of good repair. Further provided, that no storage yard for junk shall be allowed on any lot in an "I" Industrial Zone that is within 500 feet of a residential zone.

(4) All industrial buildings/structures shall be constructed on-site. Off-site constructed structures or moved-in structures may be allowed only with a conditional use permit.

(5) Where any use in the "I" District is adjacent to any Residential Zone, that use (building, parking or storage) shall be appropriately screened from the Residential Use District by plantings or fencing, except where plantings and/or fencing may be in conflict with § 154.50.

(G) *Performance standards.*

(1) *Noise.* All noise shall be muffled so as not to be objectionable due to intermittence, beat frequency or shrillness.

(2) *Air pollution.* State emission standards shall be met by all possible sources of air pollution. In any case, there shall not be discharged from any sources whatsoever such quantities of air contaminants, smoke or detriment, nuisance or annoyance to any considerable number of persons or to the public in general to endanger the comfort, health or safety of any such considerable number of persons or have a natural tendency to cause injury or damage to business, vegetation or property.

(3) *Odor.* The emission of odorous matter in such quantities as to be readily detectable at any point along lot lines or to produce a public nuisance or hazard beyond lot lines is prohibited.

(4) *Glare, heat or radiation.* Every use shall be so operated that there is no emission or heat, glare or radiation visible or discernable beyond the property line.

(5) *Vibration.* Every use shall be so operated that the ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point on the property line.

(6) *Sewage and liquid wastes.* No operation shall be carried on which involves the discharge into a sewer, watercourse, river or the ground of liquid wastes of any radio-active nature, or liquid wastes of chemical nature, which are detrimental to normal sewage plant operations or corrosive or damaging to sewer pipes and installations.

(7) *Fire hazard.* All flammable substances involved in any activity or use, shall be handled in conformance with the standard of the National Board of Fire Underwriters and any additional regulations that may from time to time be adopted by the City Council.

(8) *Physical appearance.* All operations shall be carried on within an enclosed building except that new or operable equipment and waste materials stored in enclosed containers, not readily visible from the street, may be displayed or stored in the open.

(Ord. passed 7-7-2014)

ADMINISTRATION

§ 154.35 GENERAL.

(A) *Permits required.* No building or other structure shall be erected, moved, added to or structurally altered without a permit issued by the City Council. The City Council except in conformity with the provisions of this chapter shall issue no permit, unless it issues a written order in the form of an administrative review, under conditional use, or variance as provided by this chapter is received.

(B) *Applications.* All applications for permits shall be accompanied by a site plan drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of the buildings already existing, if any; and the location and dimensions of the proposed building or alteration. The application shall include such other information as lawfully may be required by the Administrative Official, including legal description, existing or proposed buildings or alterations; existing or proposed uses of the building and land; the number of families, housekeeping units or rental units the building is designed to accommodate conditions existing on the lot; and such other matters as may be necessary to determine conformity with, and provide for the enforcement of, this chapter.

(C) *Fee schedule.*

(1) The City Council shall by resolution establish a schedule of fees, charges and expense and a collection procedure for building permits, conditional use permits, variances, amendments, appeals and other matters pertaining to this chapter. The schedule of fees may be altered or amended only by the City Council.

(2) The current fee schedule shall be available from the Administrative Official. All fees shall be the property of the city and shall be paid over to the City Finance Officer for credit to the General Fund of the city, which under no condition shall be refunded. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.

(D) *Issuance of permits.* Permits issued on the basis of plans and applications approved by the Administrative Official on behalf of the City Council authorize only the use, arrangement and construction set forth in such approved plans and applications, and other use, arrangement or construction at variance with that authorized shall be deemed violation of this chapter, and punishable as provided by § 154.02(B).

(E) *Expiration of use permit.* Unless otherwise specified by the Board of Adjustments, if the work desired in any use permit has not begun within 90 days from the date of issuance thereof, said permit shall expire. It shall be canceled by the Administrative Official, and written notice thereof shall be given to the persons affected. If the work described in any use permit has not been substantially completed within one year of the date of issuance thereof, said permit shall expire and be canceled by the Administrative Official, and written notice thereof shall be given to the persons affected, together with notice that further work as described in the canceled permit shall not proceed unless and until a new permit has been obtained.

(Ord. passed 7-7-2014)

§ 154.36 ADMINISTRATIVE OFFICIAL.

(A) *Establishment and purpose.* The position of Administrative Official is hereby established for the city. The Administrative Official may be employed by the city or other entity in another position. The City Council shall appoint the Administrative Official. Further, he or she may be provided with the assistance of such other persons as the City Council may direct. The Administrative Official shall administer and enforce this chapter. It is the intent of this chapter that all questions of interpretation and enforcement shall be first presented to the Administrative Official and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Administrative Official.

(B) *Duties.* The powers and duties of the Administrative Official shall be as follows:

- (1) Issue all building permits as approved by the City Council and make and maintain records thereof;
- (2) Conduct inspections of buildings, structures and the use of land to determine compliance with this chapter;
- (3) Notify in writing persons responsible for violations, indicating the nature of the violation and ordering action necessary to correct;
- (4) Order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings or structures or of illegal additions; alterations or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this chapter to ensure compliance with or to prevent violation of its provisions;
- (5) Revoke any permit, which was unlawfully issued, or any permit wherein defective work has been performed, and when such work has not been corrected within 90 days of notification;
- (6) Maintain permanent and current records of this regulation, including, but not limited to, all maps, amendments, variances, appeals and applications;
- (7) Provide public information relative to all matters arising out of this chapter;
- (8) Forward to the City Council all applications for building permits in accordance with this chapter;
- (9) Forward to the Planning and Zoning Commission all applications for amendments to this chapter;
- (10) Forward to the Board of Adjustment, applications for appeals, variances or other matters on which the Board of Adjustment is required to pass under this chapter;
- (11) Initiate, direct and review, from time to time, a study of the provisions of this chapter, and to make such reports available to the Planning and Zoning Commission. The Administrative Official shall receive applications for building permits, conditional uses, variances and zoning amendments;
- (12) For building permits, the Administrative Official, on behalf of the City Council, shall issue building permits only in accordance with the provisions of this chapter, and which have been approved by the City Council;

(13) For conditional use s and variances, the Administrative Official shall review the application, and shall provide a review of the application to the Board of Adjustment to either approve or approve said application; and

(14) For zoning amendments, the Administrative Official shall review the application, and shall provide a review of the application to the Planning and Zoning Commission and City Council.

(C) *Powers.* If the Administrative Official shall find that any of the provisions of this chapter are being violated, he or she shall notify in writing the persons responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He or she shall order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings or structures or of illegal additions, alterations or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this chapter to ensure compliance with or to prevent violation of its provisions.

(Ord. passed 7-7-2014)

§ 154.37 BOARD OF ADJUSTMENT.

(A) *Establishment.* A Board of Adjustment is hereby established, which shall consist of the members of the City Council, as provided for in the provisions of SDCL Chapter 11-4.

(B) *Procedures for meetings.*

(1) The Board of Adjustment shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this chapter. The City Council President shall act as Chairperson of the Board. Meetings shall be held at the call of the Chairperson and at such other times as the Board of Adjustment may determine. The Chairperson, or in his or her absence the acting Chairperson, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.

(2) The Board of Adjustment shall keep minutes of its meetings of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official action, all of which shall be a public record and be immediately filed in the office of the Board of Adjustment.

(C) *Hearings; appeals; notice.*

(1) Appeals to the Board of Adjustment concerning interpretation or administration of this chapter may be taken by any person aggrieved or by any officer of the governing body of the city affected by any decision of the Administrative Official. Such appeals shall be taken within a reasonable time, not to exceed 60 days or such lesser period as may be provided by the rules of the Board, by filing with the Administrative Official and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The Administrative Official shall forthwith transmit to the Board all papers constituting the record upon which the action appealed was taken from.

(2) The Board of Adjustment shall fix a reasonable time for the hearing of appeal, give public notice thereof as well as due notice to the parties in interest, and

decide the same within a reasonable time. At the hearing, any party may appear in person or by agent or attorney.

(D) *Stay of proceedings.* An appeal stays all proceedings in furtherance of the action appealed from unless the Administrative Official from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal is filed with him or her, that by reason of facts stated in the certificate, a stay would, in his or her opinion, cause an imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application, on notice to the Administrative Official from whom the appeal is taken and on due cause shown.

(E) *Powers and duties of Board of Adjustment.* The Board of Adjustment shall have the following powers and duties:

(1) *Administrative review.*

(a) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Administrative Official in the enforcement of this chapter.

(b) To hear and decide appeals to decisions made by the Administrative Official regarding zoning permits.

(2) *Conditional uses.* To hear and decide only such conditional uses as the Board of Adjustment is specifically authorized to pass on by the terms of this chapter; to decide such questions as are involved in determining whether conditional uses should be granted; and to grant conditional uses with such conditions and safeguards as are appropriate under this chapter, or to deny conditional uses when not in harmony with the purpose and intent of this chapter; and

(3) *Variances.* To hear requests for variances from this chapter in instances where strict enforcement would cause unnecessary hardship, and to authorize upon appeal in specific cases such variance from the terms of this chapter as which will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter would result in unnecessary hardship.

(Ord. passed 7-7-2014)

§ 154.38 PROCEDURES FOR APPLICATIONS.

(A) *Building permits.*

(1) No new development, change of use, moving in/moving out of structures, demolition or other action which may be regulated by the provisions of this chapter including use, height, number of occupants, lot area, off-street parking or yard requirements, shall occur without a building permit issued by the Administrative Official. Building permits issued on the basis of plans and applications recommended for approval by the City Council and approved by the Administrative Official authorize only the use, arrangement or construction set forth in such approved plans and specifications.

(2) Any use, arrangement or construction at variance without authorization shall be deemed a violation of this regulation and shall be punishable as

provided by this regulation. The failure to obtain the necessary building permit shall be punishable under this regulation.

(a) The landowner, or applicant on behalf of the landowner, requesting the building permit shall complete an application for a building permit, accompanied with the appropriate fee, available from the Administrative Official. Completed applications shall be returned to the Administrative Official for review. To be considered complete, the application form shall be accompanied by the following additional items.

1. Applications for building permits shall be accompanied by a site plan drawn to scale with the following information indicated in order to determine compliance with this chapter.

2. A site plan, drawn to scale, showing the exact size, shape and dimensions of the lot to be built upon, the exact size and location on the lot of all existing buildings and structures, and the exact size and location on the lot of the structure or building proposed to be repaired, altered, erected or moved, and the size, arrangement, number of parking stalls, movement of vehicles and ingress and egress drives for all off-street parking and loading facilities.

3. The location of the said lot with respect to existing rights-of-way and adjacent lots.

4. A letter of certification stating that the lot to be built upon has been accurately surveyed. This requirement may be waived by the Administrative Official in the event lot markers (pins) have been located.

5. Any other information which the Administrative Official may deem necessary for consideration in enforcing the provisions of this chapter.

(b) One copy of the application shall be returned to the applicant, after the Administrative Official has marked such copy as either approved or disapproved, and attested to the same by signing said copy of the plans, the Administrative Official, for city records, shall retain one copy of the application, similarly marked.

(c) The Administrative Official shall then, if the application is approved, issue a signed building permit. If the Administrative Official determines the proposed action would not be in compliance with the provisions of these regulations, a building permit may not be issued, and the applicant may then appeal the action of the Administrative Official to the Board of Adjustment

(d) Building permits shall be posted in a conspicuous place upon the premises and visible from a public right-of-way at all times from the beginning until completion of such construction, alteration or repair.

(e) With application for a building permit, the site must be clearly staked out and/or the Administrative Official will examine plans that clearly indicate the structure to be erected or remodeled, or alterations of the existing structure.

(B) *Conditional uses.*

(1) Conditional uses are allowed for certain uses in some zoning districts. Uses not listed within the individual zoning districts as eligible for a conditional use permit shall not, in any circumstances, be granted a conditional use permit.

(2) The following procedure for requesting a conditional use permit shall be followed.

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(a) The Board of Adjustment shall follow the following procedure in considering the recommendation of the Administrative Official. A conditional use permit from the terms of this chapter shall not be granted by the Board of Adjustment unless and until:

1. The landowner, or applicant on behalf of the landowner, requesting the conditional use permit shall complete an application for a conditional use permit, available from the Administrative Official. Any required attachments and fees as in § 154.35 shall further accompany the application. The written application for a conditional use shall indicate the section of this chapter under which the conditional use is sought and stating the grounds on which it is requested; completed applications shall be returned to the Administrative Official for review. To be considered by the Board of Adjustment, the application form shall be completed, if any of the information required by division (A) above has changed since the original building permit application, the revised, update or corrected information shall accompany the application for a conditional use permit;

2. The Administrative Official shall review the application, and shall prepare a summary of the application, and recommended reasons, and justification for either approval of or disapproval of the application;

3. The Administrative Official shall set the date, time and place for a public hearing to be held by the Board of Adjustment. Not less than ten days prior to the public hearing, the Administrative Official shall notify the adjacent landowners (excluding streets and alley) by mail; shall publish notice of the public hearing, in a newspaper of general circulation in the area affected by the proposed conditional use permit. The notification of adjacent landowners and publication of notice shall be performed by the Administrative Official at the expense of the applicant;

4. A public hearing shall be held. Any party may appear in person, or by agent or attorney;

5. The Board of Adjustment shall rule that it is empowered under the section of this chapter described in the application to grant the conditional use, and that the granting of the conditional use will not adversely affect the public interest; and

6. Before any conditional use permit shall be issued, the Board of Adjustment shall make written finding certifying compliance with the specific rules governing individual conditional uses and that satisfactory provision and arrangement has been made concerning the following, where applicable:

a. Utilities, refuse and service areas, with reference to locations, availability and compatibility;

b. Screening and buffering with reference to type, dimensions and character;

c. Required yards and other open space;

d. General compatibility with adjacent properties and other property in the district;

e. Entrance and exit to property and proposed 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; and

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f. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties.

(b) In order to preserve the intent of these zoning regulations and to protect the public interest, the Board of Adjustment may attach conditions to a conditional use permit. A conditional use permit shall remain valid only as long as the terms and conditions of the conditional use permit, as attached by the Board of Adjustment are complied with.

(c) Approval of any application for a conditional use permit shall be by a two-thirds majority (two votes) of all members of the Board of Adjustment.

(C) *Variances.*

(1) Variances are designed to allow some flexibility in the zoning regulations in cases where the exceptional shape of a parcel of land, the use of a property is overwhelmingly affected by exceptional topographic conditions, or any other extraordinary situation or condition of such a parcel of land. Variances are to be approved only when a property owner demonstrates that the provisions of all or part of these regulations present an undue hardship on such property owner's use of such parcel of land. A variance shall include a description of the specific regulatory item or items in this chapter, which are found to produce said undue hardship. Variances shall only be granted when the Board of Adjustments finds that such relief from these zoning regulations will be neither detrimental to the public good nor in conflict with the intent of these zoning regulations.

(2) The following procedure for requesting a variance shall be followed.

(a) The Board of Adjustment shall follow the following procedure in considering the recommendation of the Administrative Official. A variance from the terms of this chapter shall not be granted by the Board of Adjustment unless and until:

1. An application for variance, available from the Administrative Official, shall be completed by the landowner, or applicant on behalf of the landowner, requesting the variance and shall be accompanied by any required attachments and fees as in § 154.35(C). The written application for a variance shall indicate the section of this chapter under which the variance is sought and stating the grounds for which it is requested. Completed applications shall be returned to the Administrative Official for review. To be considered by the Board of Adjustment, the application form shall be completed. If any of the information required by division (A) above has changed since the original building permit application, the revised, updated or corrected information shall accompany the application for a variance.

2. The Administrative Official shall review the application, and shall prepare a summary of the application, and recommended reasons and justification for either approval of or disapproval of the application.

3. The Administrative Official shall set the date, time and place for a public hearing to be held by the Board of Adjustment. Not less than ten days prior to the public hearing, the Administrative Official shall notify the adjacent landowners (excluding streets and alley) by mail; shall publish notice of the public hearing, in a newspaper of general circulation in the area affected by the proposed conditional use Permit. The notification of adjacent landowners and publication of notice shall be performed by the Administrative Official at the expense of the applicant.

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4. A public hearing shall be held. Any party may appear in person, or by agent or attorney;

5. The Board of Adjustment shall follow the following procedure in considering the recommendation of the Administrative Official. A variance from the terms of this chapter shall not be granted by the Board of Adjustments unless and until:

a. A written application for a variance is submitted demonstrating:

i. That special conditions and circumstances exist which are peculiar to the land, structure or building involved, and which are not applicable to other land, structures or buildings in the same district;

ii. 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;

iii. That the special conditions and circumstance do not result from the actions of the applicant; and

iv. That granting the variance request 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.

b. 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.

(b) The Board of Adjustment shall make findings that the requirements of division (C)(2)(a)5. above have been met by the applicant for a variance.

(c) The Board of Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of land, building or structure.

(d) The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

(e) Approval of any variance shall be by a two-thirds majority (two votes) of all members of the Board of Adjustment.

(f) In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this chapter. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter and punishable under § 154.02(B).

(g) Under no circumstances shall the Board of Adjustment 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.

(D) *Board has powers of Administrative Official on appeals: reversing decision of Administrative Official.*

(1) It is the intent of this chapter that all questions of interpretation and enforcement shall be first presented to the Administrative Official, and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Administrative Official.

(2) In exercising the above-mentioned powers, the Board of Adjustment may, so long as such action is in conformity with the terms of this chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have the powers of the Administrative Official from whom the appeal is taken.

(3) The concurring vote of two-thirds of all members (two votes) of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination of the Administrative Official, or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter, or to effect any variation in the application of this chapter.

(E) *Appeals.* Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment may present to a court of record a petition duly verified, setting forth that the decision is illegal, in whole or in part, specifying the grounds of the illegality. The petition shall be presented to the court within 30 days after the filing of the decision in the office of the Finance Officer.

(F) *Zoning amendments.*

(1) The regulations, restrictions and boundaries set forth in this chapter may from time to time be amended, supplemented, changed or repealed, provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Unless otherwise provided for in these regulations, any change in these regulations, shall require City Council approval of an ordinance describing said changes. The City Council may not consider said ordinance until the Planning and Zoning Commission has delivered a recommendation to either approve or not approve said ordinance.

(2) The following procedure for requesting a zoning amendment shall be followed.

(a) 1. An application for amendment, available from the Administrative Official, shall be completed by the landowner or other person(s) requesting the amendment. Completed applications shall be returned to the Administrative Official for review. To be considered by the Planning and Zoning Commission and City Council, the application form shall be completed and shall be accompanied by the following items:

a. Any required attachments and fees, including registered or certified mail costs in § 154.35(C); and

b. Any additional information, as requested by the Administrative Official, as lawfully may be required to determine conformance with and provide for enforcement of this chapter.

2. The Administrative Official shall review the application, and shall forward a summary of the application, and his or her comments regarding said application, to the Planning and Zoning Commission for their review.

3. The Administrative Official shall set the date, time, and place for a joint public hearing to be held by the Planning and Zoning Commission and City Council. The Administrative Official shall publish notice of the public hearing in a newspaper of general circulation in the area affected by the proposed amendment; such notice shall be published not less than ten days prior to the public hearing, if the proposed amendment will change the boundaries of a zoning district, the Administrative Official shall notify all owners of property within 250 feet of the proposed boundary change, by registered or certified mail at the expense of the applicant, at least ten days before the public hearing.

4. The public hearing shall be held. Any person may appear in person, or by agent or attorney. Minutes of the public hearing shall be recorded and kept in the records of the Planning and Zoning Commission.

5. The Planning and Zoning Commission shall either recommend or not recommend approval of the amendment to the City Council.

6. The City Council shall either approve or not approve the ordinance describing the proposed changes to these zoning regulations, in accordance with standard procedures for reading, approval, publication and effective date.

7. When the City Council approves a proposed amendment affecting the zoning classification of property, affected property owners may file a written protest to stop such an amendment from taking effect. If the protest meets the following standard, such amendment shall not become effective unless the amendment is approved by two-thirds of the City Council.

(b) The protest shall be signed by at least 40% of the owners of equity in the parcels in the area affected by the amendment, and the parcels or parts of parcels within 250 feet of the area affected by the amendment.

(G) *Reapplication.* No application requesting a variance, conditional use, or zoning ordinance amendment or district classification change on any property whose application includes any such property either entirely or substantially the same as that which has been denied by the Board, shall again be considered by the Planning Commission or Board of Adjustment before the expiration of six months from the date of the final action of the Planning Commission or Board of Adjustment (Ord. passed 7-7-2014)

SUPPLEMENTAL REGULATIONS

§ 154.50 VISIBILITY AT INTERSECTIONS.

On a corner lot in any zoning district, no planting or obstruction to vision between the range of three feet and eight feet in height measured from the centerline of the road

shall be placed or maintained within the triangular area formed by the intersection road right-of-way lines and a straight line connecting points on said road right-of-way line, each of which is 50 feet distance from the point of intersection (clear view triangle). (Ord. passed 7-7-2014) Penalty, see § 154.99

§ 154.51 FENCES.

(A) No person shall hereafter construct, erect or maintain or cause to be constructed, erected or maintained, in the city corporate limits any fences of any character or material, without first securing permission from the Administrative Official.

(B) Fences, walls and hedges which are more than 30% solid shall abide by § 154.50.

(C) Notwithstanding other provisions of this chapter, fences, walls and hedges with a maximum height of not more than seven feet high, may be erected on any part of a lot other than in the required front yard which shall be limited to a height of three feet.

(D) Hedges or other plantings which create a fence effect are subject to the same regulations as fences

(E) No person shall hereafter construct erect, or maintain or cause to be constructed, erected or maintained, in the city corporate limits any fences of any character or material closer than two feet to the sidewalk line or property line. Exception: a fence/wall/hedge may be placed on the property line provided the fence/wall/hedge is shared between property owners and agreement providing for the maintenance of said fence/wall/hedge is recorded at the Register of Deeds.

(F) Approved fencing materials include stone, brick, wood, vinyl and chain link. The city further requires fencing materials to be "new" used for first time installation. Individuals wishing to utilize "used" not first time installation fencing materials shall require Board of Adjustment approval. No electric or barbed wire fence shall be used in the construction of any fences within the "R" Residential District, "GC" General Commercial District or on the property lines separating commercial or industrial zoned property with residentially zoned property. Except that barbed wire may be used in connection with a security fence when the barbed wire is at least six feet from the ground.

(G) Fences that are adjacent to alleys shall be set back five feet from the street/boulevard right-of-way.

(H) That side of the fence considered being the face (facing as applied to fence post) should face abutting property.

(Ord. passed 7-7-2014) Penalty, see § 154.99

§ 154.52 ACCESSORY USES.

(A) No accessory use shall be deemed to be authorized by this chapter unless such use is in fact subordinate to and on the same parcel with the principal use in conjunction with which it is maintained.

(B) No accessory use shall be permitted in any district unless such use is specifically authorized by this chapter.

(C) No accessory building which is attached to or within ten feet of a principal structure shall be erected in any required yard. Exceptions:

(1) No separate accessory building shall be erected within five feet of any side or rear lot line, except that, when a garage is entered directly from an alley, it shall not be located closer than 20 feet to the alley line; and

(2) Accessory buildings may be located in a rear yard, but may not occupy more than 30% of a rear yard, and shall not be used for dwelling purposes.

(D) No separate accessory building shall be erected within five feet of any other building.

(E) No accessory building may be used for residential dwelling purposes at any time.

(F) Residential districts: accessory uses shall be permitted for the principal permitted uses and conditional uses of the residential districts only in accordance with the provisions of the following table hereby adopted by reference and declared to be part of this chapter.

(G) Commercial and industrial districts: in any commercial or industrial district, any accessory use customarily incident to the principal permitted use or conditional use shall be permitted, except those uses specifically prohibited in the district.

...[missing material]...

(Ord. passed 7-7-2014) Penalty, see § 154.99

§ 154.53 SIGNS AND OUTDOOR ADVERTISING.

(A) *Purpose and intent.* The purpose of this subchapter is to establish a set of standards for the fabrication, erection and use of signs, symbols, markings or advertising devices within the city. These standards are designed to protect and promote the general welfare, health and safety of persons within the community to aid and assist in the development and promotion of business and industry by providing regulations which allow and encourage creativity, effectiveness and flexibility in the design and use of such devices.

(B) *On- and off-site signs.*

(1) No private sign shall be erected or maintained which:

(a) Creates a hazard due to collapse, fire, collision, decay or abandonment; or

(b) Creates traffic hazards, by either:

1. Confusing or distracting motorists;
2. Impairing the driver's ability to see pedestrians, obstacles or other vehicles;
3. Impairing the driver's ability to see and interpret any official traffic sign, signal or device;
4. Creates a nuisance to persons using a public right-of-way; or

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5. Constitutes a nuisance to occupancy of adjacent and contiguous property by its brightness, size, height or movement.

(2) Signs shall be permitted in all zoning districts, subject to the following provisions:

(a) Wall signs may be located anywhere on the wall of a building.

(b) Freestanding signs shall not project over public property.

(c) Temporary signs for public or private institutions, school, nonprofit membership organizations and philanthropic institutions that are educational, cultural; religious or recreational in nature, may display temporary on-premises or off-premises signs shall not require a permit provide the following:

1. The size shall not exceed 60 square feet; and

2. The height of the sign shall not exceed eight feet.

(d) Freestanding signs shall not be erected adjacent to a corner of two intersecting streets, unless such signs are constructed to not obstruct the view of said intersection.

(e) Each sign in the incorporated limits of the city shall at least meet the standards established by the State Department of Transportation.

(f) Other than utility fixtures or holiday decorations, no signs, awnings or display shall be suspended, hanged or placed so that the same shall hang over any part of a street or sidewalk, used for vehicular or pedestrian travel unless a written application for a permit is made to the Administrative Official and the said Official grants a permit therefor.

(Ord. passed 7-7-2014) Penalty, see § 154.99

§ 154.54 PARKING.

(A) *Parking, storage or use of major recreation equipment.* For purposes of these regulations, major recreational equipment is defined as including boats and boat trailers, travel trailers, pick-up campers or coaches (designed to be mounted on automotive vehicles), motorized dwellings, tent trailers and the like, and cases or boxes used for transporting recreational equipment, whether occupied by such equipment or not. No major recreational equipment shall be parked or stored in the required front yard of any lot in a residential district, provided however, that such equipment may be parked anywhere on 37 residential premises for a period not to exceed 72 hours. No such equipment shall be used for living, sleeping or housekeeping purposes when parked or stored on a residential lot, or in any location not approved for such use.

(B) *Parking and storage of certain vehicles.* Automotive vehicles or trailers of any kind or type inoperable or without current license plates shall not be parked or stored on any property in the "GC" General Commercial, "I" Industrial or "R" Residential District other than in completely enclosed buildings.

(C) *Off-street parking requirements.* Except in the "C" Commercial District, off-street motor vehicle parking and loading spaces shall hereafter be provided on the same lot as, and in the number stated, for each use set forth in the Schedule of Minimum Off-Street Parking and Loading Requirements below. In the event the

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minimum number of spaces specified cannot be reasonably provided on the same lot as the principal use for which the spaces are required, the Zoning Commission may permit such spaces to be provided on other off-street property within 400 feet of the entrance to such principal use.

<i>Use or Structure</i>	<i>Minimum Off-Street Parking Requirements</i>	<i>Minimum Off-Street Loading Requirements</i>
Bed and breakfast	One space for each guest room	None
Bowling alleys	Four spaces per alley	One space per establishment
Churches	One space for each four seats in the main seating area	None
Eating and drinking places	One space for each three customer seating spaces	One space per establishment
Hospitals	One space for each three beds	Three spaces per establishment
Hotels/motels	One space for each guest room	One space per establishment
Industrial uses	One space for each two employees on the maximum working shift	Two spaces per establishment
Libraries	One space for each 500 square feet of floor area	One space per establishment
Manufactured home parks	Two spaces for each manufactured home	None
Medical or dental clinics	One space for each examining or operating room plus one space for each doctor and employee	None
Mortuaries and funeral homes	Five spaces for each reposing room	Two spaces per establishment
Multiple-family dwellings; nursing, convalescent and rest homes	Two spaces for each dwelling unit exclusive or required yards	None
Private clubs, lodges, social or fraternal organizations	One space for each 100 square feet or one space for each three seats at bars or dining tables, whichever is greater	None
Retail sales establishments	One space for each 300 square feet of floor area	One space per establishment
Schools	One space for each 25 students	One space per school
Service establishments	One space for each 300 square feet of floor area	One space per establishment
Single-family dwellings	Two spaces for each dwelling unit exclusive of required yards	None

<i>Use or Structure</i>	<i>Minimum Off-Street Parking Requirements</i>	<i>Minimum Off-Street Loading Requirements</i>
Theaters, auditoriums and places of public assembly	One space for each four seats of design capacity	One space per establishment
Wholesale and distribution	One space for each two employees on the maximum working shift	Two spaces per establishment

(Ord. passed 7-7-2014)

§ 154.55 STRUCTURES TO HAVE ACCESS.

Every building hereafter erected or moved shall be on a lot adjacent to a public street, or with access to private streets approved by the Board of Adjustment, and all structures shall be so located on lots as to provide safe and convenient access for services, fire protection and required off-street parking.

(Ord. passed 7-7-2014) Penalty, see § 154.99

§ 154.56 ADULT USES.

In the development and execution of these regulations, it is recognized that there are some uses which, because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances thereby having a deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. These special regulations are itemized in this section. The primary control or regulation is for the purpose of preventing a concentration of these uses in any one area.

(A) ***Setbacks.***

(1) None of the following uses may be established, operated or maintained within 350 feet of a residence, a church, a school meeting all the requirements of the Compulsory Education Laws of the state, or a public park:

- (a) Adult bookstore;
- (b) Adult motion picture theater;
- (c) Adult photo studio;
- (d) Adult entertainment facility;
- (e) Any use which has as a part of its operation an adult use component including, but not limited to, a restaurant or eating place, a bar, lounge or tavern; or
- (f) Any use intended to provide adult amusement or entertainment.

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- (2) Not more than two of the following uses may be established, operated or maintained within 350 feet of each other:
- (a) Adult bookstore;
 - (b) Adult motion picture theater;
 - (c) Adult photo studio;
 - (d) Adult entertainment facility;
 - (e) Any use which has as a part of its operation an adult use component including, but not limited to, a restaurant or eating place, a bar, lounge or tavern;
 - (f) Any use intended to provide adult amusement or entertainment;
 - (g) A bar; and
 - (h) A liquor store.

(3) The 350-foot restriction provided for in division (A)(2) above may be waived and a conditional use permit issued upon proper application if the Board of Adjustment finds:

- (a) The proposed use will not be contrary to the public interest or injurious to nearby properties and that the spirit and intent of these regulations will be observed;
- (b) The proposed use will not enlarge or encourage the development of a 'skid row' area; and
- (c) All applicable regulations will be observed.

(B) *Required license.* It shall be unlawful for any person to engage in the business of operating an adult use in the city without first having obtained a license from the City Council.

(C) *Application: standards for issuance.*

(1) Application for an adult use license shall be made in writing and shall state the following:

- (a) The name, address, telephone number and age of the applicant and the registered agent of the applicant if the applicant is a corporation;
- (b) The location of the adult use business;
- (c) The exact nature of the adult use to be conducted and of the proposed place of business and the facilities related thereto;
- (d) A statement by the applicant that he or she is familiar with the provisions of this section and is in compliance with them;
- (e) A statement of whether the business will be conducted by a manager and, if so, the name, address, telephone number and age of each such manager; and
- (f) A statement that no manager or principal operating the business has been convicted of any offense of prostitution, soliciting for prostitution, or obscenity or public indecency as defined in the state statutes within the last two years, and that the applicant has not had any license for an adult use in any other community revoked within the last two years.

(2) Within 15 days after receipt of an application, for an adult use license, the City Council shall investigate the information contained in the application and shall determine the following:

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(a) The premises designated by the applicant as the location of the business are in full compliance with all applicable ordinances of the city, including zoning ordinances.

(b) The premises and each manager and employee comply with the provisions of division (C)(1) above as such provisions apply to them.

(c) The applicant, each manager and each employee are over 21 years of age.

(d) No manager or principal operator of the business has been convicted of any offense of prostitution, solicitation for prostitution, or obscenity or public indecency, as defined in the state statutes within the last two years, and that the applicant has not had any license for an adult use revoked within the last two years.

(3) If the investigation shows the compliance of the applicant for an adult use license, the premises upon which the business is to be conducted and each manager and employee, if applicable, with each of the requirements established in divisions (C)(1) and (C)(2) above, and with the conditions and regulations set forth in this division (C) within 15 days after completion of such investigation, the City Council shall issue a license, and upon payment by the applicant of the license fee required under this subchapter, the license shall be issued.

(4) If the investigation shows that the applicant for an adult use license, the premises on which the business is to be conducted, or the managers and employees, if applicable, do not comply with each of the requirements established in division (C)(1) above, and with the conditions and regulations set forth in division (D) below within 15 days after completion of such investigation, the City Council shall notify the applicant in writing that, the license has been denied. Such denial shall be the final administrative action of the city with respect to the license application, and shall be subject to the immediate appeal by the applicant to the Circuit Court.

(D) *Conditions and regulations governing operation; violation; penalty.*

(1) The following regulations shall govern and control the business of operating an adult use in the city.

(a) No person under 21 years of age shall be allowed on the licensed premises.

(b) At all times during the hours of operation there shall be present a manager or other employee of the licensee who shall be not less than 21 years of age.

(c) Upon a change of any manager conducting business for the licensee, the licensee shall, within ten regular business days, give the City Council written notice of such change by actual delivery or by registered or certified mail. The licensee shall, thereafter, as promptly as practicable, but in any event within five regular business days, provide the information concerning the new manager which is required in division (C) above.

(d) No adult use shall be located on premises for which a license to sell alcoholic liquor has been issued, and no alcoholic liquor shall be permitted on such premises.

(e) No adult use shall be permitted unless the premises on which such business is located complies with the requirements of this chapter.

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(f) No licensee or manager under the provisions of this section shall knowingly permit any person to remain in or upon licensed premises who commits any act of public indecency or obscenity as defined in the state statutes.

(g) No licensee or manager under the provisions of this section shall permit any act of prostitution, solicitation for prostitution or patronization of a prostitute on the licensed premises.

(h) No sign shall be posted on the licensed premises which depicts, displays or refers to specified anatomical areas or specified sexual activities, as defined in this subchapter.

(2) In addition to the requirements established in division (D)(1) above, the following regulations shall govern and control the operation of an adult bookstore which offers any films or videotapes for viewing on premises by use of motion picture devices or other such operations means:

(a) All viewing areas, which shall be defined as the area where a patron or customer would ordinarily be positioned while watching a film or viewing device, shall be visible from a continuous main aisle or public room and shall not be obscured by any curtain, door, wall or other enclosure;

(b) There shall be no aperture whatsoever in any wall or partition between viewing areas; and

(c) Each viewing area shall be lighted at a minimum level of ten footcandles in all parts thereof.

(3) In addition to the requirements established in division (D)(1) above, the following regulations shall govern and control the operation of an adult entertainment facility.

(a) All performers shall be at least 21 years of age.

(b) All performances, exhibitions or displays shall take place on a platform raised at least two feet from the level of the floor, and located at least ten feet from any patron.

(c) No performer shall fondle or caress any patron or other performer and no patron shall fondle or caress any performer.

(d) No patron shall be permitted to pay or give any gratuity to any performer, and no performer shall solicit any pay or gratuity from any patron.

(4) It shall be unlawful for any person licensed to engage in the business of operating an adult use within the city to fail to comply with the conditions and regulations set forth in divisions (C) and (D) of this section as they are applicable to the licensed business, or to suffer or permit noncompliance with such conditions and regulations on or within the licensed premises. In this regard, any act or omission of an employee shall be deemed the act or omission of the owner if such act or omission occurred either with the authorization, knowledge or approval of the owner or as a result of the owner's negligent failure to supervise the employee's conduct. All conduct occurring while on the premises shall be presumed to be the responsibility of the owner.

(5) Any person convicted of a violation of this section shall be subject to a fine pursuant to § 154.99(B).

(E) *Suspension or revocation.* Nothing in the terms of this section shall preclude the right of the City Council to suspend or revoke the license of the licensee, as follows.

(1) The City Council may temporarily suspend any license issued under the terms of this section when he or she has reason to believe that the continued operation of a particular licensed premises will immediately threaten the welfare of the community or create an imminent danger of violation of applicable law. In such case, he or she may, upon the issuance of a written order stating the reason for such determination, and without notice or hearing, order the licensed premises closed for not more than seven days; provided, that the licensee shall be given an opportunity to be heard in a public hearing during the seven-day period, and further provided that if such licensee shall also be engaged in the conduct of other business on the licensed premises, such order shall not be applicable to such other businesses.

(2) The City Council may suspend or revoke any license issued under the terms of this section upon ten days notice to the licensee of the time and place of a public hearing, and a public hearing at which the licensee may appear and present evidence, if the City Council determines upon such hearing that the licensee has failed or refused to comply with the terms of this section, has failed or refused to comply with other law applicable to the business of operating an adult use, has knowingly permitted the failure of any manager or employee on the premises to comply with the terms of this section or with other law applicable to the business of operating an adult use, has knowingly furnished false or misleading information on any application required for any license under this section or has suffered or caused another to furnish or withhold such information on his or her behalf, or has been convicted by a court of competent jurisdiction of a violation of any provision of this section.

(Ord. passed 7-7-2014) Penalty, see § 154.99

§ 154.57 YARDS.

No part of a yard or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this chapter, shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building.

(A) *Yards, reduction in size.* No yard or lot existing at the time of passage of this chapter shall be reduced in dimension or area below the minimum requirements set forth herein. Yards and lots created after the effective date of this chapter shall meet at least the minimum requirements established by this chapter.

(B) *Additional yard requirements.* The following yard requirements must be observed in addition to the yard requirements of the various districts.

(1) Except in the "A" and "C" Districts, a corner lot must have a front yard on both streets. Exception: All buildings located on lots adjacent to the "R" District shall observe a yard requirement equivalent to the minimum yard requirements of the "R" District on the side or sides adjacent.

(2) On through lots and reversed frontage lots, a front yard must be provided on both streets.

(3) Required front yards shall be devoted entirely to landscaped area except for the necessary paving or driveways and sidewalks to reach parking or loading areas in the side or rear yard.

(C) *Exceptions to yard requirements.* The following exceptions may be made to the yard requirements.

(1) Air conditioning units, sills, chimneys, cornices and ornamental features may project into a required yard a distance not to exceed four inches.

(2) In commercial and industrial districts, filling station pumps and pump islands may occupy required yards, provided, however, that they are not less than 15 feet from all lot lines.

(3) Any accessory buildings closer than ten feet to a main building shall be considered as part of the main building and shall be provided with the same side and rear yard requirements as the main building.

(Ord. passed 7-7-2014) Penalty, see § 154.99

§ 154.58 ERECTION OF MORE THAN ONE PRINCIPAL STRUCTURE ON A LOT.

In any district, only one structure housing a permitted or permissible principle use may be erected on single lot, provided that yard and other requirements are met.

(Ord. passed 7-7-2014) Penalty, see § 154.99

§ 154.59 EXCEPTIONS TO HEIGHT REGULATIONS.

The height limitations contained in §§ 154.15 through 154.21 do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

(Ord. passed 7-7-2014)

§ 154.60 PRIVATE WASTEWATER TREATMENT SYSTEMS (SEPTIC TANKS).

All existing septic tanks shall be considered nonconforming uses. All structures used for human habitation, commercial and industrial use must be connected to the city's sanitary sewer system. All structures within 200 feet of the city's sanitary sewer system shall be connected to the city's sanitary sewer system at the landowner cost.

(Ord. passed 7-7-2014) Penalty, see § 154.99

§ 154.61 MANUFACTURED HOME PROVISIONS.

(A) *Modular homes.* Modular homes shall meet the following regulations.

(1) Modular homes shall meet or exceed International Building Codes.

(2) Modular homes will include all off-site constructed homes, which may be transported to the site in one or more sections.

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(3) Modular homes shall have more than 1,000 square feet in ranch style and 850 square feet split and be placed on a permanent foundation. The foundation shall be to a depth below the frost line.

(4) Modular homes shall have a minimum of a 3/12 roof pitch.

(5) Modular homes shall have siding material of a type customarily used on site-constructed residences.

(6) Modular homes shall have roofing material of a type customarily used on site-constructed residences.

(B) *Type I and Type II manufactured homes.*

(1) *Regulation.* For the purpose of this chapter, manufactured homes will be regulated by type. Two types of homes are defined under these regulations.

(a) Type I manufactured home shall:

1. Have more than 1,100 square feet of occupied space in a double section or larger multi section unit;

2. The running gear and hitch have been removed;

3. Has been anchored to a foundation and permanent footing;

5. The footing to be a minimum of eight inches thick by 16 inches wide poured concrete with top of footing to be 16 inches below grade;

6. Prior to placement of a home on the foundation, it must be inspected and approved by the Administrative Official;

7. Have a gabled roof with a pitch of at least 3/12 feet;

8. Have siding material of a type customarily used on site-constructed residences;

9. Have roofing material of a type customarily used on site-constructed residences; and

10. The age of the manufactured house may not exceed ten years from the date of manufacture.

(b) Type II manufactured home shall:

1. Have more than 700 square feet of occupied space in a single, double, expando or multi-section unit;

2. Utilize a permanent perimeter enclosure in accordance with approved installation standards, as specified in this division (B)(2)(b);

3. Be anchored to the ground, in accordance with manufacturer's specifications, or as prescribed by the TR-75, issued June 1972, by the U.S. Department of Defense or by the ANTI/NFPA 501A Standards;

4. Have siding material of a type customarily used on site-constructed residences;

5. Have roofing material of a type customarily used on site-constructed residences;

6. The age of the manufactured house may not exceed ten years from the date of manufacture; and

7. Be placed onto a support system in accordance with approved installation standards, as specified in this division (B)(2)(b).

(2) *Installation standards.*

(a) *Permanent perimeter enclosure as required for Type I and II manufactured homes.* Those manufactured homes designated in this chapter, as requiring a permanent perimeter enclosure must have footings and crawl space or basement walls. The space between the floor joints of the home shall be completely enclosed with the permanent perimeter enclosure (except for required openings).

(b) *Foundation siding/skirting.* All manufactured homes without a permanent perimeter enclosure shall have an approved foundation siding/skirting enclosing the entire perimeter of the home.

(c) *Support system.*

1. All HUD-Code manufactured homes of the Type I classification shall be installed with load-bearing foundations in conformance with the manufacturer's installation specifications.

2. Type II manufactured homes not placed on a permanent foundation shall be installed on a support system in conformance with the manufacturer's installation specifications or with the support systems regulations in the ANTI/NFPA 501A 1977 installation standards.

(3) *Nonconforming homes.* A manufactured home placed and maintained on a tract of land and deemed to be a legal nonconforming use prior to the adoption of this chapter shall continue to be a legal nonconforming use. If the nonconforming use is discontinued for a period of one year, the land thereafter must be used in conformity with all provisions of this chapter.

(4) *Replacement of nonconforming homes.* See § 154.16(C)(6).

(5) *Structural alteration.* Due to its integral design, the Administrative Official after it is placed on the site must approve any structural, alteration or modification of a manufactured home.

(6) *Variance from maximum age requirement.* Type I and Type II manufactured homes may receive a variance from the maximum age requirement (divisions (B)(1)(a)10. and (B)(1)(b)6). The Board of Adjustment may grant a variance if the applicant requesting the placement of the manufactured home meets the following requirements.

(a) The applicant shall provide a photograph of the manufactured home's exterior and interior.

(b) It shall have been shown to the satisfaction of the Board of Adjustment that the said manufactured home complies with the gas, plumbing, electrical and construction requirements of the city.

(c) The applicant shall obtain and present to the Board of Adjustment the written consent of 66% of the property owners owning property immediately adjacent (excluding streets and alleys) to the proposed building site. (Ord. passed 7-7-2014) Penalty, see § 154.99

§ 154.62 PERMANENT FOUNDATIONS REQUIRED FOR DWELLINGS.

No dwelling shall be constructed, installed or moved into the area under the jurisdiction of these regulations, unless said dwelling is constructed upon, installed on or moved onto a permanent foundation, as defined in these regulations. Exempted from

this requirement are manufactured homes in an approved manufactured home park, provided said manufactured homes are anchored with tie downs to prevent the manufactured home from dangerous motion during high wind or other weather related events.

(Ord. passed 7-7-2014) Penalty, see § 154.99

§ 154.63 UTILITY EASEMENTS.

No building or addition thereto shall be erected over or across any existing public utility or upon any platted easement.

(Ord. passed 7-7-2014)

§ 154.64 MOVED IN BUILDINGS.

(A) It shall be unlawful to move any house or other building onto any lot or to any new location within the city unless and until a permit to do so has been obtained from the Administrative Official.

(B) No permit shall be issued until the following requirements are met.

(1) The fee for said permit as prescribed in § 154.35(C) shall have been paid.

(2) It shall have been shown to the satisfaction of the Administrative Official that the said house or other building complies with the gas, plumbing, electrical and construction requirements of the city.

(3) The work is to be completed within 12 months after the permit has been issued by the Administrative Official.

(4) The applicant shall also file with the City Finance Officer a sufficient bond conditioned so that the applicant will indemnify the city and any public utility for any damage done to any property, street, alley or public grounds, and to insure that any site reclamation work is completed, said bond to be in a minimum of \$500.

(5) No building shall be moved other than during the period from daylight to sundown.

(6) Before any permit is granted under this section, the applicant must furnish proof that all taxes legally assessed against the property have been paid. If a building or structure is to be moved onto any lot within the city, the Administrative Official shall have the power to deny the granting of a moving permit on the grounds that the intended use of the structure or location thereof is contrary to the provisions of this chapter.

(7) Any building, which is not newly constructed to be used-for first occupancy, shall also meet the following minimum requirements to obtain a permit. The written consent of 66% of all property owners owning property immediately adjacent (excluding streets and alleys) to the proposed building site.

(Ord. passed 7-7-2014) Penalty, see § 154.99

§ 154.65 MOVED OUT BUILDINGS.

(A) It shall be unlawful to move any house or other building off of any lot within the city unless and until a permit to do so has been obtained from the Administrative Official.

(B) No permit shall be issued until the following requirements are met.

(1) The fee for said permit, as prescribed in § 154.35(C), shall have been paid.

(2) The work is to be completed within 12 months after the permit has been issued by the Administrative Official.

(3) The applicant shall also file with the Finance Officer a sufficient bond so that will indemnify the city and any public utility for any damage done to any property, street, alley or public grounds, and to guarantee that the building will be placed on an adequate foundation, will be attached to the city's electrical, water and sewer service where available, that the property on which said building is to be located will be properly landscaped and seeded in accordance with requirements of the Administrative Official, said bond to be in a minimum of \$500.

(4) No building shall be moved other than during the period from daylight to sundown before any permit is granted under this section, the applicant must furnish proof that all taxes legally assessed against the property have been paid. If a building or structure is to be moved onto any lot within the city, the Administrative Official shall have the power to deny the granting of a moving permit on the grounds that the intended use of the structure or location thereof is contrary to the provisions of this chapter.

(5) When no replacement structure is to be moved in or constructed, the applicant shall agree to restore the lot to a buildable condition. This may include but is not limited to concrete basement removal, collapsing of the basement walls, earthwork, landscaping and/or reseeded.

(Ord. passed 7-7-2014) Penalty, see § 154.99

§ 154.66 REFUSE.

In all zoning districts, refuse (rubbish, garbage, trash, waste or debris) shall be kept within a complete enclosed building or specially designed closed container made for such purpose. Owners of vacant lots shall be responsible for keeping their property free of trash.

(Ord. passed 7-7-2014) Penalty, see § 154.99

§ 154.67 CARETAKER/WATCHMAN'S QUARTERS.

(A) Caretaker/watchman's quarters on parcels with an "C" or "I" zoning designation shall require a conditional use permit.

(B) Caretaker or watchman's living quarters shall be limited to not more than one dwelling unit.

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(C) The dwelling unit shall be occupied by person(s) associated with the operation or maintenance of the business or building, if it is found that the occupant(s) are not associated with such operation or maintenance the living area shall be removed.

(1) The total area of the dwelling unit shall consist of not more than 20 to 30% of the total area of the building.

(2) The dwelling unit shall maintain an entrance other than that of the business associated with the caretaker or watchman's living quarters.

(3) Exceptions:

(a) If a single entrance enters into a common hallway or corridor in which the business and dwelling unit are entered separately, the dwelling unit may be allowed to use the same entrance as the business; and

(b) Entrance to the dwelling unit is accessible only by employees of the business.

(Ord. passed 7-7-2014) Penalty, see § 154.99

§ 154.99 PENALTY.

Violations of this chapter shall be treated in the manner specified below.

(A) Any person who starts work for which a permit (building, conditional use, variance, rezoning) is required by this zoning ordinance, without first securing such permit and paying the prescribed fee, shall be charged according to the provisions of this section. All administrative fees assessed there under shall be rounded to the nearest whole dollar.

(1) Upon finding such violation, the Administrative Official shall notify the owner of property involved verbally or by sending a written notification of the requirement that a permit be obtained to the owner of the property involved by certified mail with return receipt requested. If application for said permit is filed within seven working days from the verbal notification or date of receipt of the letter, an administrative fee shall be assessed in accordance with the following table:

	<i>Building Project Cost</i>		
	\$0 to \$5,000	\$5,001 to \$50,000	Greater than \$50,000
Administrative fee to be assessed	\$25	\$50	\$100

In addition the above described fees an administrative fee in the amount of 100% of the fee for the conditional use permit, variance and/or rezoning (where applicable) plus the cost of the postage for mailing the aforementioned notice shall be assessed. In no case shall this administrative fee be less than \$5, including the postage costs.

(2) If application for said permit is filed after the original deadline of seven working days following the verbal notice or receipt of the notification of the requirement therefor, there shall be imposed an additional administrative fee in the amount of 100% of the administrative fee described in division (A)(1) above in addition to a fee in the amount of two times the fee for the conditional use permit, variance

and/or rezoning (where applicable) plus the cost of the postage for mailing the aforementioned notice shall be assessed. The payment of the administrative fee shall not relieve such person from the provisions of division (B) below.

(3) Any administrative fee or penalty imposed under the provisions of this zoning ordinance shall be in addition to any other fees or charges required under this zoning ordinance.

(B) It is declared unlawful for the owner or any agent of a building or premises in or upon which a violation of any provision of these regulations has been committed or shall exist, or the lessee or tenant of an entire building or entire premises in or upon which violation has been committed or shall exist, or the agent, architect, building contractor or any other person who commits, takes part or assists in any violation or who maintains any building or premises in or upon which such violation shall exist to violate any of the terms and provisions of these regulations or other official control adopted by the City Council pursuant thereto. Any person who violates, disobeys, omits, neglects or refuses to comply with or resists the enforcement of any provision of this zoning ordinance may be subject to a civil or criminal penalty. The penalty for violation of this zoning ordinance shall be \$500 or imprisonment for not more than 30 days, or both, and in addition the violator shall pay all costs and expenses involved in the case. Each and every day that such violation continues after notification may constitute a separate offense. All fines for violation shall be paid to the Finance Officer and shall be credited to the General Fund of the city.

(C) In the event any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building or structure or land is used in violation of this chapter or other regulation the Administrative Official, or the city, as a corporation or any interested person, in addition to other remedies, may institute injunction, mandamus or any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use of land, to restrain, correct or abate such violation, to prevent the occupancy of said building or land or to prevent any illegal act, conduct, business or use in and to and of such premises.

(Ord. passed 7-7-2014)

TABLE OF SPECIAL ORDINANCES

Table

- I. ANNEXATIONS
- II. FRANCHISES
- III. AGREEMENTS; LAND USE CHANGES

TABLE I: ANNEXATIONS

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
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Ord. No.	Date Passed	Description
9	- -	<i>Annexes Case's Addition</i>
10	- -	<i>Annexes Becker's Addition</i>

TABLE II: FRANCHISES

Ord. No.	Date Passed	Description
-	- -	<i>Grants cable television franchise to Satellite Cable Services, Inc.</i>
-	- -	<i>Grants solid waste collection franchise to contractors Ronald Lembke and Audrey Lembke</i>
8	- -	<i>Grants telephone exchange franchise to Dakota Central Telephone Lines, Inc.</i>
27	- -	<i>Grants franchise to Standard Oil Company</i>
100	- -	<i>Grants telephone and telegraph system franchise to Northwestern Bell Telephone Company</i>
127	- -	<i>Grants gas franchise to Northwestern Public Service Company</i>
172	- -	<i>Grants electric light and power franchise to Otter Tail Power Company</i>
164	3-2-1987	<i>Grants solid waste franchise to Rollo D. Peterson</i>
194	1-7-1993	<i>Grants natural gas franchise to Northwestern Public Service Company</i>
211	4-10-2000	<i>Grants antenna television system franchise to Satellite Cable Services, Inc.</i>

- -Grants cable television franchise to Satellite Cable Services, Inc.
- -Grants solid waste collection franchise to contractors Ronald Lembke and Audrey Lembke

TABLE III: AGREEMENTS; LAND USE CHANGES

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Ord. No.	Date Passed	Description
163	3-2-1987	<i>Closes the city garbage disposal site</i>
-	10-5-1988	Agreement to purchase water from Kingbrook

PARALLEL REFERENCES

References to South Dakota Codified Laws

References to Ordinances

REFERENCES TO SOUTH DAKOTA CODIFIED LAWS

<i>SDCL References</i>	<i>Code Section</i>
Chapters 3-1 through 3-24	32.02
1-26-30 through 1-26-37	31.05, 91.08
9-1-1	10.02, 10.04
9-13-13	10.04
9-13-16	30.01
9-19-1	10.04
9-19-3	10.99, 90.999
9-29-12	90.001
9-30-2	153.07
10-45	33.02, 33.05, 33.99
10-46	33.03
10-52	33.01, 33.04
10-52-9	33.02
Chapter 11-4	154.01, 154.03, 154.37
Chapter 11-6	154.01
11-6-39	154.16
Chapter 20-13	31.07, 91.10
21-10-5	90.020
21-10-9	90.020
22-6-2(2)	10.99, 90.999
Chapter 32-36, § 1-10	50.20

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<i>SDCL References</i>	<i>Code Section</i>
40-1-2.3	90.081
40-1-2.4	90.082
40-12-4	90.001
40-12-5	90.043
40-12-6	90.044
40-34-13	90.020
40-34-14	90.021
40-34-15	90.020, 90.022
43-15A	154.04

REFERENCES TO ORDINANCES

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
-	--	Ch. 74, Sch. I
-	--	TSO, Table II
-	--	TSO, Table II
-	--	31.01 - 31.08
-	--	34.01 - 34.03
-	--	50.16
-	--	70.01 - 70.38, 70.99
-	--	72.01 - 72.06, 72.99
-	--	91.01 - 91.11
-	--	93.01 - 93.03, 93.99
-	--	111.01, 111.02, 111.99
-	--	131.03
8	--	TSO, Table II
9	--	TSO, Table I
10	--	TSO, Table I
27	--	TSO, Table II
100	--	TSO, Table II
127	--	TSO, Table II
146	--	30.01
153	--	150.07, 150.08, 150.99
161	--	50.15 - 50.21, 50.99

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Ord. No.	Date Passed	Code Section
163	--	50.01, 50.99
168	--	30.01
172	--	TSO, Table II
175	--	90.004
204	--	152.01 - 152.06
15	5-22-1905	95.01
28	11-10-1914	30.02 - 30.08, 110.01 - 110.08, 110.99, 111.15 - 111.21, 111.99, 130.01 - 130.28, 131.01, 131.02, 132.01 - 132.03, 150.01 - 150.06
163	3-2-1987	TSO, Table III
164	3-2-1987	TSO, Table II
-	10-5-1988	TSO, Table III
-	--1989	112.01 - 112.06
173	8-7-1989	92.23, 92.99
175	10-2-1989	90.004, 90.999
187	7-8-1991	90.005, 90.999
194	1-7-1993	TSO, Table II
200	11-6-1995	51.01
201	11-6-1995	150.08
-	9-15-1999	32.01 - 32.10
211	4-10-2000	TSO, Table II
212	7-10-2000	92.15 - 92.22
215	7-8-2002	50.19
216	7-8-2002	153.01 - 153.07
219	10-7-2002	92.35 - 92.37, 92.99
220	8-4-2003	Ch. 73, Sch. I
235	6-4-2007	72.20 - 72.25, 72.99
240	--2008	150.20 - 150.29
238	9-8-2008	151.01 - 151.05, 151.99
236	5-3-2010	92.01 - 92.03, 92.99
287	5-3-2010	71.01, 71.02, 71.03, 71.99
291	3-7-2011	33.01 - 33.05, 33.99
250	10-3-2011	111.03
254	7-9-2012	94.01, 94.02
-	7-7-2014	154.01 - 154.04, 154.15 - 154.21, 154.35 - 154.38, 154.50 - 154.67, 154.99

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