

CITY OF GETTYSBURG, SOUTH DAKOTA

CODE OF ORDINANCES

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CODE OF ORDINANCES
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ATTEST:

/s/ Sheila K. Schatz
Sheila K. Schatz, Finance Officer

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The approximate cost of publication \$

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- I. Franchise Agreements
- II. Real Estate Transactions

- Section 3. All prior ordinances pertaining to the subjects treated in such Code of Ordinances shall be deemed repealed from and after the effective date of this ordinance except as they are included and re-ordained in whole or in part in such Code; provided, such repeal shall not affect any offense committed or penalty incurred or any right established prior to the effective date of this ordinance, nor shall such repeal affect the provisions of ordinances levying taxes, appropriating money, annexing or detaching territory, establishing franchises, or granting special rights to certain persons, authorizing public improvements, authorizing the issuance of bonds or borrowing of money, authorizing the purchase or sale of real or personal property, granting or accepting easements, plat or dedication of land to public use, vacating or setting the boundaries of streets or other public places; nor shall such repeal affect any other ordinance of a temporary or special nature or pertaining to subjects not contained in or covered by the Code.
- Section 4. Such Code shall be deemed published as of the day of its adoption and approval by the Legislative Authority and the Clerk of the Political Subdivision is hereby authorized and ordered to file a copy of such Code of Ordinances in the Office of the Clerk.
- Section 5. Such Code shall be in full force and effect as provided in Section 6, and such Code shall be presumptive evidence in all courts and places of the ordinance and all provisions, sections, penalties and regulations therein contained and of the date of passage, and that the same is properly signed, attested, recorded, and approved and that any public hearings and notices thereof as required by law have been given.
- Section 6. This ordinance is declared to be an emergency measure necessary for the immediate preservation of the peace, health, safety and general welfare of the people of this municipality, and shall take effect at the earliest date provided by law.

PASSED AND ADOPTED by the Legislative Authority of the Political Subdivision on this 12th day of July, 2021.

CITY OF GETTYSBURG

(SEAL)

/s/ Bill Wuttke
Bill Wuttke, Mayor

ORDINANCE NO. 2021-7-12

AN ORDINANCE ENACTING A CODE OF ORDINANCES FOR THE CITY OF GETTYSBURG, SOUTH DAKOTA, REVISING, AMENDING, RESTATING, CODIFYING, AND COMPILING CERTAIN EXISTING GENERAL ORDINANCES OF THE POLITICAL SUBDIVISION DEALING WITH SUBJECTS EMBRACED IN SUCH CODE OF ORDINANCES, AND DECLARING AN EMERGENCY.

WHEREAS, the present general and permanent ordinances of the political subdivision are inadequately arranged and classified and are insufficient in form and substance for the complete preservation of the public peace, health, safety, and general welfare of the municipality and for the proper conduct of its affairs; and

WHEREAS, the Acts of the Legislature of the State of South Dakota empower and authorize the political subdivision to revise, amend, restate, codify, and compile any existing ordinances and all new ordinances not heretofore adopted or published and to incorporate such ordinances into one ordinance in book form; and

WHEREAS, the Legislative Authority of the Political Subdivision has authorized a general compilation, revision and codification of the ordinances of the Political Subdivision of a general and permanent nature and publication of such ordinance in book form; and

WHEREAS, it is necessary to provide for the usual daily operation of the municipality and for the immediate preservation of the public peace, health, safety, and general welfare of the municipality that this ordinance take effect at an early date.

NOW, THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE AUTHORITY OF THE POLITICAL SUBDIVISION OF THE CITY OF GETTYSBURG, SOUTH DAKOTA:

Section 1. The general ordinances of the Political Subdivision as revised, amended, restated, codified, and compiled in book form are hereby adopted as and shall constitute the "Code of Ordinances of the City of Gettysburg, South Dakota."

Section 2. Such Code of Ordinances as adopted in Section 1 shall consist of the following Titles:

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Title I:	General Provisions
Title III:	Administration
Title V:	Public Works
Title VII:	Traffic Code
Title IX:	General Regulations
Title XI:	Business Regulations
Title XIII:	General Offenses
Title XV:	Land Usage

PUBLISHER'S ACKNOWLEDGMENT

In the publication of this Code of Ordinances, every effort was made to provide easy access to local law by municipal officials, the state league, the citizens of this municipality, and members of the business community.

We want to express our grateful appreciation to all municipal officials and the South Dakota Municipal League for their untiring efforts in the preparation of this Code of Ordinances.

AMERICAN LEGAL PUBLISHING CORPORATION

Ray Bollhauer, Esq.
President

TITLE I: GENERAL PROVISIONS

Chapter

- 10. RULES OF CONSTRUCTION; GENERAL PENALTY**
- 11. CITY STANDARDS**

CHAPTER 10: RULES OF CONSTRUCTION; GENERAL PENALTY

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- 10.02 Rules of interpretation
- 10.03 Captions
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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 "Gettysburg Code of Ordinances", 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 chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CITY. The City of Gettysburg, South Dakota.

CITY COUNCIL. The City Council of Gettysburg, 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. Potter County, South Dakota.

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

GOVERNING BODY. The City Council of Gettysburg, South Dakota.

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

MONTH. A calendar month.

MUNICIPALITY or **MUNICIPAL CORPORATION.** The City of Gettysburg, South Dakota.

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

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 in which the municipality is located, or his or her heirs or successors.

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.

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. South Dakota Codified Laws.

STATE. The State of South Dakota.

STREET. *STREET* includes *AVENUE*.

YEAR. A calendar year.

Statutory reference:

General definitions, see SDCL §§ 9-1-1, 9-19-1

§ 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.

(A) 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.

(B) 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.

§ 10.15 COPIES OF CODE.

Three copies of the Gettysburg Municipal Code, as printed under the authority of the municipality and hereby adopted, have been filed and are now on file for public inspection in the office of the Finance Officer of the city.

(Prior Code, § 1.01.100) (Ord. 331, passed - -1989)

§ 10.99 GENERAL PENALTY.

The city is 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)

CHAPTER 11: CITY STANDARDS

Section

- 11.01 Boundaries
- 11.02 Wards
- 11.03 Voting precincts

§ 11.01 BOUNDARIES.

The city shall include all territory within the original Townsite of Gettysburg, together with all subsequent additions taken into the city since that time, less territory legally excluded therefrom if any, according to the recorded plats thereof recorded in the office of the Register of Deeds of the county. (Prior Code, § 1.08.010)

§ 11.02 WARDS.

The city is divided into three wards as follows:

(A) First Ward (also known as “Ward 1”): all that portion of the city lying north of Commercial Avenue to the point of Mannston Street, north to Blaine Avenue, then east to Harrison Street, south to Logan Avenue and then east to County Road 155;

(B) Second Ward (also known as “Ward 2”): all that portion of the city lying south of Commercial to the point of Mannston Street, north to Blaine Avenue, then east to East Street; and

(C) Third Ward (also known as “Ward 3”): all that portion of the city lying south of Blaine Avenue and east of East Street to the point of Harrison Street, south to Logan Avenue and then east to County Road 155.

(Prior Code, § 1.08.020) (Ord. 2012-1-2, passed 2-7-2012)

§ 11.03 VOTING PRECINCTS.

The boundaries of the city as defined by § 11.01 shall constitute an election precinct and the polling place shall be designated by the governing body by resolution from time to time.

(Prior Code, § 1.08.030) (Ord. 2023-09-11, passed 10-2-2023)

TITLE III: ADMINISTRATION

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- 30. MAYOR AND CITY COUNCIL**
- 31. OFFICIALS AND EMPLOYEES**
- 32. ORGANIZATIONS**
- 33. PUBLIC SAFETY AND LAW ENFORCEMENT**
- 34. REVENUE AND FINANCE**
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- 36. PLANS AND POLICIES**

CHAPTER 30: MAYOR AND CITY COUNCIL

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30.15 Length of terms
30.16 Meetings
30.17 Notice of special meetings
30.18 President and Vice President
30.19 Supervision of departments
30.20 Voting; conduct of business

GENERAL PROVISIONS

§ 30.01 MAYOR; DUTIES.

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

(B) (1) He or she shall perform such other duties as may be prescribed by the laws and ordinances, and take care that such laws and ordinances are faithfully executed.

(2) He or she shall annually and from time to time give the Council information relative to the affairs of the city, and shall recommend for its consideration such measures as he or she may deem expedient.

(3) He or she shall have the power to sign or veto any ordinance or resolution passed by the Council, and the power to veto any part or item of an ordinance or resolution appropriating money.

(B) In the event of such vote, a two-thirds' vote of the Council shall be necessary to pass such ordinance or resolution over the veto.

(Prior Code, § 2.04.010)

CITY COUNCIL**§ 30.15 LENGTH OF TERMS.**

In accordance with SDCL § 9-8-4.1, the City Council shall consist of the Mayor elected at large and six Council members elected at large by the voters of the municipality. The Mayor's term of office shall be four years. At the first election of Council members, the Council shall stagger the initial terms of the Council members to provide that all six Council members are not up for reelection in the same year. To accomplish this, the initial term of office for three Council members shall be two years and the initial term of office for three Council members shall be four years. The Mayor and Council members shall hold office until successors are elected and qualified. A person may hold office for more than one term. (Ord. 1998-7-1, passed 7-20-1998; Ord. 2023-09-11(A), passed 10-2-2023)

§ 30.16 MEETINGS.

Regular meetings of the governing body shall be held on the first Monday of each month at 7:00 p.m. CST at the City Finance Office, unless otherwise rescheduled.

§ 30.17 NOTICE OF SPECIAL MEETINGS.

(A) The city's Finance Officer shall issue written notice of each special meeting, stating by what authority the meeting is called, the time and place of holding such meeting and the matters to be considered.

(B) Such notice shall be personally served upon each member of the Council then in the city; provided, however, that, notice of the special meeting may be waived either by attendance at such meeting or by waiver in writing, filed with the city's Finance Officer. Such notice shall be served at least 24 hours prior to the time of holding of such meeting.
(Prior Code, § 2.08.020)

§ 30.18 PRESIDENT AND VICE PRESIDENT.

(A) At the first regular meeting after the annual election in each year and after the qualification of the newly elected Council members, the Council shall elect from among its own members a President and Vice President, who shall hold their respective offices for the municipal year.

(B) The President of the Council, in the absence of the Mayor, shall be presiding officer of the Council and, during the absence of the Mayor from the city or his or her temporary disability, shall be Acting Mayor and possess all of the powers of the Mayor.

(C) In the absence or disability of the Mayor and President of the Council, the Vice President shall perform the duties of the Mayor and President of the Council.
(Prior Code, § 2.08.030)

§ 30.19 SUPERVISION OF DEPARTMENTS.

The Mayor, with the approval of the Council, at the first meeting in May of each year, shall appoint two members of the Council to act in a supervisory capacity in each of the departments of water, street, liquor, police, fire and any other departments of the city, and such Council members so appointed shall have supervision over the department to which they are named as supervisors, and shall from time to time and as requested by the Council, report as to the condition and matters in the department.
(Prior Code, § 2.08.040)

§ 30.20 VOTING; CONDUCT OF BUSINESS.

(A) The purpose of this section is to clarify the necessary number of votes that permit the Council to conduct business and act on behalf of the city.

(B) The section became effective immediately upon passage.

(C) A quorum of the Council shall be present to conduct official business on behalf of the city. A simple majority of said quorum is required to act officially on behalf of the city, unless otherwise specified in the state's codified laws.

(D) Council members are expected to vote on all business before the Council unless a conflict of interest exists. If a conflict of interest does exist, the intent to abstain shall be announced before a vote is taken. If a Council member abstains from voting, then three affirmative votes on the part of the remaining Council members shall be sufficient to pass the motion, except as noted by the city.
(Ord. 2005-2-1, passed 3-7-2005; Ord. 2006-4-8, passed 5-1-2006)

CHAPTER 31: OFFICIALS AND EMPLOYEES

Section

- 31.01 Compensation
- 31.02 City Attorney; duties

§ 31.01 COMPENSATION.

(A) The annual salaries of the appointive officers and all other employees of the city shall be set according to the salary schedule as adopted by the governing body with provisions for cost of living increases to be determined from time to time at the discretion of the governing body.

(B) The salaries mentioned in division (A) above shall be paid from such funds as may be determined by the governing body by appropriation ordinance or other action or resolution of the governing body.

(Prior Code, § 2.16.010)

§ 31.02 CITY ATTORNEY; DUTIES.

The duties of the City Attorney shall be as follows.

(A) When required by the Council or any officer of the city, the City Attorney shall furnish an opinion upon any matter relating to the affairs of the city or the official duties of such officer, conduct the prosecutions of all actions or proceedings arising out of the violation of any ordinance, represent the city in all actions or proceedings to which it may be a party and perform such other professional services incident to his or her office as may be required by ordinance or directed by the Council.

(B) If the Council shall require the City Attorney to render assistance or perform services in connection with any revision of the ordinances, he or she shall receive such compensation in addition to his or her salary as may be agreed upon between the Council and him or her.

(Prior Code, § 2.12.030) (Ord. 367, passed - 1994)

Statutory reference:

Related provisions, see SDCL § 9-14-22

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- 32.01 Findings
- 32.02 Designation
- 32.03 Duties
- 32.04 Authorization to receive and distribute funds

Consolidated Board of Equalization

- 32.15 Established

Cross-reference:

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Police policy standard operating guidelines, see § 36.02

HIGH PLAINS ARTS COUNCIL

§ 32.01 FINDINGS.

(A) The artists and artistic institutions of the city contribute to and provide cultural, educational, entertainment and recreational benefits to and used by the citizens of the city.

(B) The establishment of the High Plains Arts Council has promoted and encouraged public programs to further the development and public awareness of and interest in the arts, which is essential to the public welfare.

(Prior Code, § 2.32.010) (Ord. 322, passed - -1987)

§ 32.02 DESIGNATION.

The city designates the High Plains Arts Council Inc. as the organization to assist the city in promoting and encouraging public programs to further the development and awareness of and interest

in the arts and to act in an advisory capacity to the city in connection with the artistic and cultural development of the city.

(Prior Code, § 2.32.020) (Ord. 322, passed - -1987)

§ 32.03 DUTIES.

(A) In furtherance of the objectives of this subchapter, the High Plains Arts Council Inc. is to initiate, sponsor and conduct public programs to further the development and awareness of, and interest in, the arts.

(B) The High Plains Arts Council Inc. is to advise and assist the city in connection with such other artistic activities as may be referred to it by the city.

(Prior Code, § 2.32.030) (Ord. 322, passed - -1987)

§ 32.04 AUTHORIZATION TO RECEIVE AND DISTRIBUTE FUNDS.

The Council authorizes the High Plains Arts Council Inc. to receive and distribute funds on behalf of the city.

(Prior Code, § 2.32.040) (Ord. 322, passed - -1987)

CONSOLIDATED BOARD OF EQUALIZATION

§ 32.15 ESTABLISHED.

There is hereby established a Consolidated Board of Equalization with the Potter County Board of Equalization, and that the Board will consist of the Potter County Board of Commissioners, one representative from the Gettysburg School District governing board, and two members from the city governing board.

(Res. 2020-11-2, passed 11-2-2020; Res. 2021-11-1, passed 11-1-2021; Res. 2022-10-03(a), passed 10-3-2022; Res. 2023-10-02, passed 10-2-2023; Res. 2024-10-07, passed 10-7-2024)

CHAPTER 33: PUBLIC SAFETY AND LAW ENFORCEMENT

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Fire Department

- 33.01 Established
- 33.02 Constitution and bylaws
- 33.03 Officers and members

Police Department

- 33.25 Members
- 33.26 Duties

Cross-reference:

Police policy standard operating guidelines, see § 36.02

FIRE DEPARTMENT

§ 33.01 ESTABLISHED.

There is established for city a Volunteer Fire Department which shall consist of a Chief, Assistant Chief, Secretary-Treasurer and such other members as may be from time to time determined by the Fire Department.

(Prior Code, § 2.20.010)

§ 33.02 CONSTITUTION AND BYLAWS.

The Fire Department may adopt such constitution and bylaws and rules for its regulations and government, subordinate to the ordinances of the city as it may deem best calculated to accomplish the object of its organization.

(Prior Code, § 2.20.020)

§ 33.03 OFFICERS AND MEMBERS.

The Fire Department shall provide a roster of its officers and members to the city, annually, wherein said roster will be approved by motion of the City Council.
(Prior Code, § 2.20.030)

POLICE DEPARTMENT**§ 33.25 MEMBERS.**

The Police Department shall consist of a Chief of Police and such other police officers and employed by the city.
(Prior Code, § 2.24.010) (Ord. 2009-10-10, passed 11-4-2009)

§ 33.26 DUTIES.

The Chief of Police and members of the Police Department shall perform such duties as shall be prescribed by the City Council for the preservation of the peace and any other duties which may from time to time be prescribed by the City Council.
(Prior Code, § 2.24.020)

CHAPTER 34: REVENUE AND FINANCE

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- 34.01 Annual reports by boards
- 34.02 Contracts by Council members
- 34.03 Claims
- 34.04 Sale of personal property

§ 34.01 ANNUAL REPORTS BY BOARDS.

Each of the boards appointed and acting for the city in the administration of city affairs and the head of each department of the city shall make an annual report of its receipts, disbursements and activities to the Council as soon as practicable after the close of the fiscal year, which report shall be filed with the city's Finance Officer.

(Prior Code, § 3.04.010)

§ 34.02 CONTRACTS BY COUNCIL MEMBERS.

No officer or member of the Council shall enter into any contract, make any purchase or create any indebtedness against the city in excess of \$300 without first having submitted the matter of incurring such indebtedness or making such contract to the Council or having received authority of such Council therefor.

(Prior Code, § 3.08.010) (Ord. 2004-9-7, passed 9-20-2004)

§ 34.03 CLAIMS.

(A) All claims against the city shall be in writing and upon forms provided by the city's Finance Officer and in such form as required by statute of the state.

(B) Prior to passage or approval by the Council, claims shall bear the approval of the Council members.

(Prior Code, § 3.12.010) (Ord. 1997-3-2, passed - -1997)

§ 34.04 SALE OF PERSONAL PROPERTY.

(A) Whenever the Council deems it for the best interest of the city that personal property belonging to the city be sold, which property has been abandoned or is about to be abandoned for public use, the property shall be sold to the highest bidder upon such terms as may be determined by the Council.

(B) Notice of sale shall be given by publication once a week for three successive weeks in the official newspaper of the city which notice shall contain a description of the personal property to be sold and the time and place where bids will be received by the Council for the sale; and the Council may, at such time, sell the personal property to the highest and best bidder therefor or may, in its discretion, reject all bids.

(Prior Code, § 3.16.010)

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- 35.02 Effective date and enactment
- 35.03 Use tax
- 35.04 Collections
- 35.05 Interpretation

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- 35.20 Enactment
- 35.21 Limitations

- 35.99 Penalty

SALES AND SERVICE TAX

§ 35.01 PURPOSE.

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

(Ord. 2005-7-5, passed 8-22-2005)

§ 35.02 EFFECTIVE DATE AND ENACTMENT.

From and after 1-1-2006, there is hereby imposed as a municipal retail occupational sales and service tax upon the privilege of engaging in business a tax measured by 2% on the gross receipts of all

persons engaged in business within the jurisdiction of the city, who are subject to the state's retail occupational sales and service tax, SDCL Ch. 10-45, and acts amendatory thereto.
(Ord. 2005-7-5, passed 8-22-2005)

§ 35.03 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 1-1-2006, at the same rate as the municipal sales and service tax upon all transactions or use, storage and consumption which are subject to the state's Use Tax Act, SDCL Ch. 10-46, and acts amendatory thereto.
(Ord. 2005-7-5, passed 8-22-2005)

§ 35.04 COLLECTIONS.

Such tax is levied pursuant to authorization granted by SDCL Ch. 10-52, and acts amendatory thereto, and shall be collected by the state's Department of Revenue and Regulation in accordance with the same rules and regulations applicable to the state sales tax and under such additional rules and regulations as the Secretary of Revenue and Regulation of the state shall lawfully prescribe.
(Ord. 2005-7-5, passed 8-22-2005)

§ 35.05 INTERPRETATION.

It is declared to be the intention of this subchapter and the taxes levied hereunder that the same shall be interpreted and construed in the same manner as all sections of the state's Retail Occupational Sales and Service Act, SDCL Ch. 10-45, and acts amendatory thereto, and the state's use tax, SDCL Ch. 10-46, and acts amendatory hereto, and that this shall be considered a similar tax, except for the rate thereof to that tax.
(Ord. 2005-7-5, passed 8-22-2005)

BEVERAGE, BOARD AND BED TAX

§ 35.20 ENACTMENT.

From and after 7-1-1994, there is hereby imposed a 2% tax on the sales of leases or rentals of hotel, motel, campsite or lodging accommodations, alcoholic beverages, prepared food for immediate consumption whether dine-in or carry-out, and ticket sales or admissions to places of amusement, athletic

or cultural events (except those exempt under SDCL § 10-45-13), or any combination thereof. This tax is in addition to and not in lieu of the 2% tax imposed by §§ 35.01 through 35.05 of this chapter. (Prior Code, § 3.22.010) (Ord. 357, passed - -1994; Ord. 2003-8-13, passed - -2003)

§ 35.21 LIMITATIONS.

The revenues received from the tax imposed by § 35.20 of this chapter shall be used only for the promotion, economic development and advertising of the city. (Prior Code, § 3.22.020) (Ord. 357, passed - -1994)

§ 35.99 PENALTY.

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

(B) Any person failing or refusing to make reports or payments prescribed by §§ 35.01 through 35.05 of this chapter and the rules and regulations relating to the ascertainment and collection of the tax herein levied shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than \$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 Ch. 10-45, and acts amendatory thereto, and SDCL Ch. 10-46, and acts amendatory thereto are hereby authorized for the collection of these excise taxes by the Department of Revenue and Regulation. (Ord. 2005-7-5, passed 8-22-2005)

CHAPTER 36: PLANS AND POLICIES

Section

- 36.01 County Hazard Mitigation Plan
- 36.02 Police policy standard operating guidelines
- 36.03 Airport bid protest procedures for Gettysburg airport

§ 36.01 COUNTY HAZARD MITIGATION PLAN.

(A) The County Hazard Mitigation Plan is hereby adopted as the official plan of the city.

(B) The respective city official identified in the strategy of the plan is hereby directed to implement the recommended action assigned to them. These officials will report annually on the activities, accomplishments, and progress to the County Emergency Management.

(C) The City Planner will provide annual progress reports on the status of implementation of the plan to the Mayor and City Council. This report shall be submitted to the City Council by November 1 of each year.

(Res. passed 6-8-2020)

§ 36.02 POLICE POLICY STANDARD OPERATING GUIDELINES.

Pursuant to state statutes, the police policy standard operating guidelines are set out in final draft dated April 5, 2021, by the Chief of Police. The policy is hereby adopted by reference as if set out in full. A full copy of this policy can be found in the city office.

(Res. 2021-4-5, passed 4-5-2021)

§ 36.03 AIRPORT BID PROTEST PROCEDURES FOR GETTYSBURG AIRPORT.

(A) Any bidder may protest the award of a contract. The protest must be submitted in writing to the engineer responsible for the contract or solicitation within five calendar days after the bids are read.

(B) If a contract has been awarded, the engineer shall give notice of such protest within 24 hours to the awarded contractor. In the case of a pending award, a stay of award may be requested. A stay may be granted unless a written determination is made that the award of the contract without delay is necessary to protect the interests of the owner.

(C) The protest must contain the following:

- (1) Name, address, phone number, and email of the protestor;
- (2) A concise statement of all the material facts alleged and of all the rules, regulations, statutes, and legal provisions entitling the protestor relief;
- (3) A statement indicating the relief to which the protestor deems they are entitled; and
- (4) All other information as the protestor deems to be material to the issue.

(D) If the protest cannot be resolved by mutual agreement within seven calendar days after receipt, the City Engineer (or the engineer responsible for the contract or solicitation) shall within 24 hours send by certified mail the final decision and the basis for the decision to the protestor.

(E) Any bidder who is aggrieved in connection with the award of a contract may appeal the decision. Venue and jurisdiction for any appeals of the final decision are in the South Dakota Circuit Court in the county. Such protests and appeals regarding the request for bids and bid proposals are governed by and must be construed with South Dakota law.

(F) Failure to follow the bid protest procedures constitutes a waiver of protest and resulting claims.
(Res. 2022-01-03, passed - -)

TITLE V: PUBLIC WORKS

Chapter

- 50. GENERAL PROVISIONS**
- 51. GARBAGE**
- 52. WATER**
- 53. SEWERS**

CHAPTER 50: GENERAL PROVISIONS

Section

50.01 Service calls; fees and charges

§ 50.01 SERVICE CALLS; FEES AND CHARGES.

(A) (1) Service call fees shall be charged for services performed by the city's Maintenance Department.

(2) Examples of such services subject to a fee being charged include, but are not limited to, turning water on and off, repairing water meters, checking water meter flow, checking sewer flow, locates (including curb stops, line trace and the like), opening dumps and pit pumping.

(3) Any and all fees, charges, deposits and other rates as set shall be charged to the contact person who requested the service.

(B) Fees to be charged shall follow the following schedule.

(1) All services provided for in-town customers during normal working hours, those hours being Monday through Friday, from 8:00 a.m. until 5:00 p.m., shall be charged at a rate of \$20 per hour per person.

(2) All services provided for in-town customers at a time other than normal working hours, those hours being after normal hours, weekends, holidays and the like, shall be charged at a rate of \$60 per hour per person.

(3) All equipment rates shall be figured with an operator. Rentals will not be allowed. Service calls shall be charged according to the fee schedule listed below.

<i>Item</i>	<i>Normal Hours</i>
Backhoe	\$60 per hour
Blade	\$60 per hour

Gettysburg - Public Works

<i>Item</i>	<i>Normal Hours</i>
Dump trucks	\$50 per hour
Loader	\$60 per hour
Mower	\$50 per hour
Water truck	\$50 per hour

(Prior Code, § 13.16.010) (Ord. 1997-3-3, passed - -1997; Ord. 2003-7-7, passed - -2003; Ord. 2013-9-9, passed 11-5-2013)

CHAPTER 51: GARBAGE

Section

- 51.01 Garbage charge imposed
- 51.02 Unlawful depositing of garbage or refuse
- 51.03 Rubble site established

- 51.99 Penalty

§ 51.01 GARBAGE CHARGE IMPOSED.

Every one-family dwelling and multiple-unit dwellings or apartment buildings connected or receiving water from the municipal water system of the city waterworks system, through a water meter shall be subject to a garbage pickup charge in such amount as shall be established by resolution of the Council from time to time, to be collected monthly together with charges for water service, which monthly garbage pickup service charge shall be assessed for each single-family dwelling, multiple-family dwelling unit or apartment house units, even though only one water meter connection shall be made to the water system.

(Prior Code, § 13.08.010) (Ord. 271, passed - -1975)

§ 51.02 UNLAWFUL DEPOSITING OF GARBAGE OR REFUSE.

(A) It shall be unlawful for anyone who is not a resident of the city to deposit garbage or refuse in any form along curbs, streets or alleys of the city or at the city rubble site.

(B) It shall also be unlawful for anyone, resident or not, to deposit garbage or refuse in dumpsters located in the parks of the city or in dumpsters belonging to various commercial establishments of the city without expressed permission in writing to do so.

(C) (1) It shall also be unlawful to deposit yard waste or rubble of any type anywhere within the city for pickup by the garbage contractor.

(2) Such yard waste or rubble is to be hauled to a rubble dump.

(Prior Code, § 13.08.030) (Ord. 348, passed - -1992) Penalty, see § 51.99

§ 51.03 RUBBLE SITE ESTABLISHED.

(A) There is hereby established a rubble site for the depositing of trees, yard wastes, building materials, rocks, concrete, appliances, and bathroom fixtures for city residents only.

(B) (1) Charges for depositing in the rubble site by city residents will be set by resolution of the Council and must be paid to the city office.

(2) The charge for construction and demolition debris (non-burnable): concrete, brick, sheet rock, asphalt and fiberglass shingles, masonry, and the like shall be \$12 per axle per load.

(C) The following items cannot be accepted at the rubble site: loose plastic and Styrofoam, paper products, cans, sealant, adhesives, varnish, petro products, green and brown treated lumber, hazardous waste materials, tires, batteries, pesticides, insecticides, ash, chemical containers, paints (cans), foam rubber, pressurized containers, asbestos, household waste, poisons, medical supplies, and the like.

(D) Depositing shall only be allowed during established hours when an attendant is on duty.
(Prior Code, § 13.08.040) (Ord. 350, passed - -1993; Res. 1998-1, passed 4-20-1998) Penalty, see § 51.99

§ 51.99 PENALTY.

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

(B) Violators of any provision of § 51.02 of this chapter shall be subject to a fine of not less than \$50, nor more than \$200.
(Prior Code, § 13.08.030)

(C) Unauthorized dumping at the site or along the county road leading to the site, as per § 51.03(D) of this chapter, will be subject to a fine of not less than \$250 per violation.
(Prior Code, § 13.08.040)
(Ord. 348, passed - -1992; Ord. 350, passed - -1993)

CHAPTER 52: WATER

Section

- 52.01 Connection application; tapping fee
- 52.02 Separate service connections
- 52.03 Installation of meters
- 52.04 Unlawful use of water
- 52.05 Claims for defective service
- 52.06 Consent to rules and regulations
- 52.07 Penalty for unpaid bills; discontinuance; reconnection fee
- 52.08 Installation of service
- 52.09 Check valves
- 52.10 Service pipes
- 52.11 Use in case of fire
- 52.12 Emergency restrictions
- 52.13 Rates; late penalty; deposit
- 52.14 Hydrant rentals
- 52.15 Curb stops and backflow devices
- 52.16 Low consumption standards

- 52.99 Penalty

§ 52.01 CONNECTION APPLICATION; TAPPING FEE.

Any person desiring water service from the water system of the municipality for premises not theretofore connected with the system shall apply for connection by obtaining non-refundable permit of \$200, said permit to be approved by city maintenance.

(Prior Code, § 13.04.010) (Ord. 1997-4-2, passed - -1997; Ord. 2003-7-7, passed - -2003; Ord. 2007-5-7, passed 6-4-2007; Ord. 2011-6-4, passed - -2011)

§ 52.02 SEPARATE SERVICE CONNECTIONS.

(A) Unless special permission (in writing) is granted by the City Council, each premises shall have a separate and distinct service.

(B) Multiple unit dwelling receiving water through a single water service line and one meter shall be billed for water service as follows: the total billing shall be divided by the number of units and each dwelling unit shall be billed on the basis of a single-family dwelling.

(Prior Code, § 13.04.020) (Ord. 288, passed - -1979; Ord. 2004-9-10, passed - -2004; Ord. 2007-5-7, passed 6-4-2007)

§ 52.03 INSTALLATION OF METERS.

The city shall require all users, both residential and commercial, to install meters and to pay the cost thereof to the city's Finance Officer, such cost to be determined from time to time by the City Council. Such meters shall be installed at such times and in such places as shall be deemed advisable by the city's Maintenance Supervisor.

(Prior Code, § 13.04.030) (Ord. 2003-7-7, passed - -2003)

§ 52.04 UNLAWFUL USE OF WATER.

(A) It is unlawful for any person to use water from any premises without the consent of the owner or to use water from the municipal water system, except through an authorized outlet.

(B) No person, except an authorized representative of the Water Superintendent, shall turn on or off or tamper with any water service connection.

(C) This will be enforced by ordinance with penalties.

(Prior Code, § 13.04.040) (Ord. 2003-7-7, passed - -2003) Penalty, see § 52.99

§ 52.05 CLAIMS FOR DEFECTIVE SERVICE.

All claims for defective service shall be made in writing and filed with the city's Water Superintendent on or before the tenth day of the month next succeeding such defective service and, if such claims are so filed, it shall be the duty of the city's Water Superintendent to investigate the facts alleged in such claim and determine the amount, if any, which should be refunded to such claimant by reason of such defective service and report such determination to the City Council and, if approved, such amount shall be allowed as a credit on the following bill or paid as other claims, but no claim shall be made against the city on account of any fire or any injuries to the person or property on any consumer of water under the provisions of this section.

(Prior Code, § 13.04.050) (Ord. 2003-7-7, passed - -2003)

§ 52.06 CONSENT TO RULES AND REGULATIONS.

Every person applying for water service from the municipality, and every owner of property for which such application is made, shall be deemed by such application to consent to all the rules,

regulations and rates contained in this code and to any modification thereof, and to all new rules, regulations or rates duly adopted.

(Prior Code, § 13.04.060) (Ord. 2003-7-7, passed - -2003)

§ 52.07 PENALTY FOR UNPAID BILLS; DISCONTINUANCE; RECONNECTION FEE.

(A) A \$5 penalty shall be added to all unpaid water billings after the tenth day of the month in which they are due. After the 21st day if still delinquent the penalty shall increase again by \$20. This brings the total penalty to \$25 for the month if not paid timely.

(B) A notice of disconnection will be sent to the customer explaining the reason for disconnection, the disconnection date, the necessary action to prevent disconnection, and the penalties for reconnections. Such notice shall be sent by first class letter. If arrangements for payment are not made with Council or Mayor approval and the delinquent billing is not paid in full, the water service shall be terminated on the twentieth day of the second month in which they are due.

(C) A fee for reconnection of water service in the sum of \$35, plus \$1 per out-of-town mile to be charged both ways, shall be charged and payable before reconnection of services will be established.

(D) It will be the landlord's responsibility to notify his, her or its tenants to contact the city's Finance Officer for the purpose of establishing a water deposit and water account. If the city is not notified, the landlord will be held responsible for all charges accrued by the tenant. The city will not be responsible for monitoring changes in tenants.

(Prior Code, § 13.04.070) (Ord. 200, passed - -1979; Ord. 260, passed - -1973; Ord. 288, passed - -1979; Ord. 0396-1, passed - -1996; Ord. 1997-4-4, passed - -1997; Ord. 1999-3-1, passed - -1999; Ord. 2000-2-1, passed - -2000; Ord. 2003-7-7, passed - -2003; Ord. 2006-6-11, passed 6-27-2006; Ord. 2007-5-6, passed 6-4-2007)

§ 52.08 INSTALLATION OF SERVICE.

In installing water service, all taps, all new water services from excavations through meter installation shall be under the supervision of the city's Maintenance Supervisor.

(Prior Code, § 13.04.080) (Ord. 2003-7-7, passed - -2003)

§ 52.09 CHECK VALVES.

Check valves are required on all water connections to steam boilers or any other connections deemed by the city's Water Superintendent to require one. Safety and release valves shall be placed on all boilers or other steam apparatus connections with the water system where the steam pressure may be raised in excess of 50 pounds per square inch.

(Prior Code, § 13.04.090) (Ord. 2003-7-7, passed - -2003)

§ 52.10 SERVICE PIPES.

All service connected with the water system from the water mains to the water meters shall be copper.

(Prior Code, § 13.04.100)

§ 52.11 USE IN CASE OF FIRE.

It is declared unlawful for any person in the municipality, or any person owning or occupying premises connected to the municipal water system, to use or allow to be used during a fire any water from said system, except for the purpose of extinguishing said fire; and, upon the sounding of a fire alarm, it shall be the duty of every such person to see that all water services are tightly closed and that no water is used, except for necessary household purposes during said fire.

(Prior Code, § 13.04.110) Penalty, see § 52.99

§ 52.12 EMERGENCY RESTRICTIONS.

(A) *General.* If the City Council or the Mayor finds that due to the inability of the city's water purveyor to provide its usual and customary supply or due to drought conditions or equipment failure, the city's water supply has or may become significantly depleted to the point where a sufficient supply of water to meet all customary and unusual demand may be threatened, the City Council, by resolution, or the Mayor by executive order, may declare a water advisory, water watch, water warning or water emergency, during which time the measures and provisions described herein shall be in effect to produce an orderly and equitable reduction of water consumption until, by resolution of the City Council or by order of the Mayor, the city declares the water advisory, water watch, water warning or water emergency to be ended. The term **WATER ALERT**, as used in this section, includes a water advisory, water watch, water warning or water emergency.

(B) *Non-essential water use.* The following activities relating to water use deemed to be non-essential water uses and are subject to regulation, restrictions or prohibition pursuant to terms of this section:

(1) *Washing outdoor surfaces.* The washing of sidewalks, driveways, filling station aprons, porches and other outdoor surfaces, except by container not exceeding five-gallon capacity or pursuant to exception granted under ordinance;

(2) *Washing mobile equipment.* The washing of automobiles, trucks, trailers, trailer houses, railroad cars or any other type of mobile equipment, except where required by health and sanitary requirements and except from water contained in a container not exceeding five-gallon capacity or from a hose equipped with and automatic shutoff device at the end from which water is taken. This division (B)(2) does not include commercial vehicle washing facilities operating at fixed locations, unless specified in resolution or executive order declaring water alert;

(3) *Cleaning buildings.* The washing of the inside and outside of dwellings and buildings, except pursuant to an exception granted under this section;

(4) *Ornamental fountains.* The operation of any ornamental fountain or other structure making a similar use of water unless equipped with a re-circulating device;

(5) *Swimming pools.* The filling and operation of any swimming and wading pools not employing a filter and re-circulating system;

(6) *Watering yards, lawns or gardens.* The day and time for sprinkling, watering or irrigating of yards, lawns or gardens by any method may be regulated or prohibited;

(7) *Water vegetation.* The sprinkling, water or irrigating of shrubbery, trees, grass, ground covers, plants, vines, gardens, vegetable, flowers or any other vegetation by any method may be regulated or prohibited; and

(8) *Cleaning equipment and machinery.* The washing and cleaning of any business or industrial equipment and machinery, except where required by health and sanitation requirements and except pursuant to an exception granted under this section.

(C) *Alert levels and declaration of alert.*

(1) *Water advisory.* A water advisory may be declared when future water shortages are anticipated. This typically occurs when the area has experienced light winter snowfalls, or little or no spring rains. These factors together with high temperatures and limited amounts of forecasted precipitation may lead to a water advisory declaration. The water advisory may be declared to ensure that the needs of the city's water customers currently or in the foreseeable future are adequately met. Indicators of the need to declare a water advisory include:

(a) Notification from the city's water purveyor that sustained water treatment plant production is at near 80% capacity and current and forecasted conditions warrant the limit or curtail all nonessential use of water;

(b) Extended periods of hot and dry weather are forecasted; and

(c) Noticeable increases in the average and peak demands for water consumption.

(2) *Water watch.* A water watch may be declared when a water shortage or equipment failure poses a potential threat to the ability of the city's water system or its water purveyor to meet the needs of the city's customers currently or in the foreseeable nature. Indicators of the need to declare a water watch include:

(a) Notification from the city's water purveyor that sustained water treatment plant production is near 85% capacity and current and forecasted conditions warrant the limitation or curtailment of all non-essential use of water;

(b) Extended periods of hot and dry weather have already occurred and continuation of conditions is forecasted; and

(c) Increases in the average and peak demands for water consumption continue and are trending upwards towards more usage.

(3) *Water warning.* A water warning may be declared when a water shortage or equipment failure poses a serious threat to the ability of the city's water system or its water purveyor to meet the needs of its customers currently and in the foreseeable future. Indicators of the need to declare a water warning include:

(a) Notification from the city's water purveyor that sustained water treatment plant production is at near 90% capacity and current and forecasted conditions warrant the limitation, curtailment or the prohibition of selected or all non-essential use of water;

(b) Extended periods of hot and dry weather have already occurred and continuation is forecasted; and

(c) Increases in the average and peak demands for water consumption continue and are trending upwards towards more usage.

(4) *Water emergency.* A water emergency may be declared when a water shortage or equipment failure poses an imminent and severe threat to the ability of the city's water system or its purveyor to meet the needs of its customers. The likelihood of areas running out of water is great. Indicators of the need to declare a water emergency include:

(a) Notification from the city's water purveyor that sustained plant production is greater than 95% capacity, and current and forecasted conditions warrant limitations, curtailment or the prohibition of all non-essential use of water;

(b) Extended periods of hot and dry weather have already occurred and continuation of the conditions is forecasted; and

(c) Increases in average and peak demands for consumption continue and are trending upwards more usage.

(5) *Method of publication of advisory.* The city shall make the declaration of a water alert known to its water customers through posting a notice on the front door at City Hall and by public announcement through newspaper, radio, television, the internet and other mass media that a water advisory has been declared. If a water emergency is declared, the city shall in addition to the foregoing methods of notification use such additional means of notification as may exist and which are practical, including phone calls to homes and businesses, door-to-door notification and public emergency notification systems.

(D) *Actions by alert level.*

(1) *Water advisory.* If a water advisory is declared, the following restrictions shall take effect 24 hours after declaration:

(a) Outdoor watering of any kind is restricted to the hours of 8:00 p.m. to 7:00 a.m. and city water customers are requested to voluntarily limit their outdoor watering to three times per week; and

(b) City water customers are requested to voluntarily minimize or discontinue non-essential water uses.

(2) *Water watch.* If a water watch is declared, the following restrictions shall take effect 24 hours after the declaration:

(a) Outdoor water of any kind is restricted to the hours of 8:00 p.m. to 7:00 a.m. City water customers shall limit their watering activities to two times per week. Homes or business fronting on the north and east shall be permitted to water Tuesday and Saturday at the above times and homes or business fronting south and west shall be permitted to water Wednesday and Sunday at the above times; and

(b) All other non-essential water use shall be discontinued.

(3) *Water warning.* If a water warning is declared, the following restrictions shall take effect immediately upon declaration:

(a) Outdoor watering of any kind is restricted to the hours of 8:00 p.m. to 7:00 a.m. Water customers shall limit their watering activities to one time per week. Homes or business fronting north and east shall be permitted to water Wednesday at the above times and homes or business fronting south and west shall be permitted to water Sunday at the above times; and

(b) Other non-essential water use such as those described in the section titled “non-essential water use” shall be discontinued unless a specific waiver is granted by the city.

(4) *Water emergency.* If water emergency is declared, the following restrictions shall take effect immediately upon declaration:

(a) All outside water use, except for human consumption, sanitation and firefighting is prohibited. This prohibition includes all non-essential water uses. The Mayor is authorized to close municipal swimming pool if that closure is included in the water alert declaration;

(b) All commercial and industrial use of water not essential in providing products or a service is prohibited; and

(c) Water use not necessary for the preservation of life or the general safety or welfare of the community is prohibited.

(E) *Permitting the reasonable use of water.* The City Council or Mayor may grant an exception to any of the prohibitions contained in this section if said water use is necessary to maintain appropriate health and sanitation conditions.

(F) *Exception permits.* Upon written application by a water user, the Mayor may grant a permit for uses of water otherwise prohibited by this section would:

(1) Would cause an unnecessary and undue economic or other hardship to the applicant; or

(2) Would cause an emergency condition affecting or threatening the health, sanitation, fire protection or safety of the applicant.

(Prior Code, § 13.04.120) (Ord. 2007-8-6, passed 8-20-2007)

§ 52.13 RATES; LATE PENALTY; DEPOSIT.

(A) All new water users shall hereafter be required to pay a deposit of \$100 to ensure payment of water accounts. This deposit is to be paid before the water is activated. The deposit shall be subject to forfeit for non-payment of two months of service. Said deposit will be refunded when service is discontinued if the account has been paid in full or after five years of good payment record. This will commence starting 1-1-2005.

(B) Monthly payments for the use of water shall be due on the tenth day of each month. Monthly rates for the use of water shall be effective 1-1-2022 and are established as follows.

(1) A basic monthly fee of \$19 per month per water-consuming unit will be charged. Said basic monthly fee shall increase by \$1 per month on the first day of each year for four consecutive years. This fee does not include any water usage.

(2) Consumption of water within the city limits will be billed at the rate of \$0.55 per hundred gallons of water used. This will be effective 1-1-2020.

(3) A basic monthly fee of \$28 per month per water-consuming unit outside the city limits will be charged. Said basic monthly fee shall increase by \$1 per month on the first day of each year for four consecutive years. This fee does not include any water usage.

(4) Consumption of water outside the city limits will be billed at the rate of \$0.60 per hundred gallons of water used. This will be effective 1-1-2020.

(C) All water accounts shall be deemed delinquent if not paid by the tenth day of the calendar month for which the payment is due. A penalty of \$5 shall be assessed on all delinquent accounts not paid by the tenth day.

(Prior Code, § 13.04.130) (Ord. 256, passed - -1977; Ord. 259, passed - -1973; Ord. 266, passed - -1974; Ord. 280, passed - -1976; Ord. 288, passed - -1979; Ord. 300, passed - -1981; Ord. 363, passed 1994; Ord. 0596-2, passed - -1996; Ord. 1997-12-1, passed - -1997; Ord. 1999-3-1, passed - -1999; Ord. 2003-7-7, passed - -2003; Ord. 2004-11-13, passed 11-15-2004; Ord. 2007-5-6, passed 6-4-2007; Ord. 2008-08-11, passed 9-2-2009; Ord. 2019-10-07, passed 11-4-2019; Ord. 2021-11-01, passed 12-6-2021)

§ 52.14 HYDRANT RENTALS.

Any person wishing to rent a hydrant must first make a deposit of \$500, which will be held by the city's Finance Officer. This deposit shall be returned at the time the hydrant is no longer in use and all bills have been paid. Said renter shall show proof of liability insurance. Hydrant hook-ups must be verified in location by the city's Maintenance Supervisor/staff. Water from this hydrant will be charged at a rate equal to the current water rates and is due on a monthly basis. Any and all fees, charges, deposits and other rates as set will be charged to the contact person who requested them.

(Prior Code, § 13.04.150) (Ord. 1997-4-3, passed - -1997; Ord. 2003-7-7, passed - -2003)

§ 52.15 CURB STOPS AND BACKFLOW DEVICES.

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

BACKFLOW DEVICE. A device designed to restrict water flow into the water system.

CORPORATION. A device designed to connect a water service sized two inches or smaller to a water main.

CROSS-CONNECTION. A connection or arrangement of piping or appurtenances through which water of questionable quality or from a source other than the city's water system, wastes or other contaminants could possibly flow back into the city water system because of reversal flow.

CURB BOX. A device designed to control provide access to a curb stop.

CURB STOP. A device designed to control the flow of water within a service line from a water main.

METER. A device that records gallons of water used.

WATER MAIN. A pipe, or system of pipes and fittings, designed and used to distribute water to the water service of any customer.

(B) *Backflow device.*

(1) A backflow device must be installed on all new and replacement water lines.

(2) No cross-connections between any private water system and the city's water system shall be allowed and no plumbing shall, at any time, be connected to the public system, which is in any manner connected or a part of any private water system.

(C) *Curb stop responsibility.*

(1) *City.* The city shall maintain ownership of the water main, the corporation, the curb box and the curb stop on the city's side of the property line.

(a) All curb stops in need of repair before 5-1-2011 shall be the responsibility of the owner.

(b) The city shall maintain and repair, at its expense, the water main, the corporation, the curb box and the curb stop.

(2) *Property owner.* Property owners shall bear responsibility for their water system beginning at the curb box facing their property line and ending with their home water pipes, including the cost of installation, maintenance, repair, replacement or abandonment; except that:

(a) Installation of the meter shall be performed by the city. The cost of the meter and any costs associated with its installation and repair shall be the responsibility of the property owner; and

(b) The city shall at all times have the right to inspect, repair or otherwise service the meter, pipes and equipment.

(Ord. 2011-3-3, passed 4-4-2011)

§ 52.16 LOW CONSUMPTION STANDARDS.

(A) The purpose of this section is to ensure that the best practicable technology and management techniques are used to reduce water use in the area served by the city. This section is intended to comply with Pub. Law No. 102-575 being the Reclamation Projects Authorization and Adjustment Act of 1992, as well as paragraph 7A of the water supply contract entered into with the Mid Dakota Rural Water System, Inc., dated 7-6-1993.

(B) No person may install any new plumbing fixture which exceeds the following water use standards:

Bathroom faucet	1.5 gallons per minute at 20-80 PSI
Commercial lavatory	1.5 gallons per minute at 20-80 PSI
Kitchen faucet	2.5 gallons per minute at 20-80 PSI
Shower head	2.5 gallons per minute at 20-80 PSI
Toilet	3.0 gallons per flush
Urinal	1.0 gallon per flush

(C) This section shall not apply to fixtures purchased prior to the effective date of this code for a specific application.

(Prior Code, § 13.04.170) (Ord. 352, passed - -1993) Penalty, see § 52.99

§ 52.99 PENALTY.

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

(B) The penalty for violation of § 52.04 of this chapter will be \$100 and re-establishment of water deposit shall be required if found guilty of any violation.

(Prior Code, § 13.04.040)

(C) Every police officer, employee and official of the city shall, in connection with his or her duties imposed by law, diligently enforce the provisions of § 52.12 of this chapter. A violation of § 52.12 of this chapter shall be punishable by a fine of not to exceed \$100. If necessary to protect the city's water supply, the city may also install a water restricting device or discontinue water service to the offender.

(Prior Code, § 13.04.120)

(D) Unless otherwise provided in § 52.15 of this chapter, any violation of the provisions of § 52.15 of this chapter shall constitute a misdemeanor, punishable by a fine up to \$100. Each day that a violation continues to exist shall constitute a separate offense. The foregoing fines and penalties shall be in addition to the right of termination of public water service to a violator and the right to obtain injunctive relief in a court of law.

(E) A violation of § 52.16 of this chapter shall be punishable by a fine not exceeding \$200 or by imprisonment not exceeding 30 days, or by both such fine and imprisonment. In addition to any fine or imprisonment, the court shall order the non-conforming fixture to be replaced or repaired within 20 days.

(Prior Code, § 13.04.170)

(Ord. 352, passed - -1993; Ord. 2003-7-7, passed - -2003; Ord. 2007-8-6, passed 8-20-2007; Ord. 2011-3-3, passed 4-4-2011)

CHAPTER 53: SEWERS

Section

- 53.01 Fees; rates
- 53.02 Connection application
- 53.03 Sump pumps

- 53.99 Penalty

§ 53.01 FEES; RATES.

(A) Sewer fees shall be payable each month with the water bill. Each establishment connected to the sewer collection system of the city shall be required to remit the full amount of rental fee with the monthly water bill. Multiple-unit dwellings discharging sewerage through a single sewer line will be billed for each unit.

(B) Monthly rates for the use of sewer collection system of the city are established as follows (effective date 12-22-2014):

- (1) Up to 5,000 gallons of water usage: \$17;
- (2) Five thousand gallons to 10,000 gallons: \$26; and
- (3) Over 10,000 gallons the rate will be \$26, plus \$1 per 1,000 gallons.

(C) Sewer fees are based on the average number of gallons of water used between October and April in order not to penalize those who irrigate during the summer months. The monthly charges are as follow, again based on a per household unit.

(D) Sewer fees are payable in advance as rent.

(E) All RV parks with five or more hook-ups will be charged \$8 per hook-up per year.
(Prior Code, § 13.12.010) (Ord. 326, passed - -1988; Ord. 362, passed - -1994; Ord. 0596-1, passed - -1996)

§ 53.02 CONNECTION APPLICATION.

(A) Any person desiring wastewater service from the wastewater collection system of the municipality for premises not theretofore connected with the system shall apply for connection by obtaining a non-refundable permit of \$200. This permit will allow for the city to provide the services of wastewater collection line size, location, depth, type of pipe (clay, PVC) and the city right-of way. This permit shall be valid for ten working days, after which a new permit and fee must be obtained. Such permit shall give an exact description of the premises to be served. Such permit will be filed with the city's Finance Officer. The entire cost of connecting to the wastewater collection system shall be the responsibility of the applicant. The connection from premises service line to the city's collection line will be made under the supervision of the City Supervisor/staff.

(B) The entire cost of connecting and extension of wastewater collection line shall be the responsibility of the applicant. The project will be done under the supervision of the City Maintenance Supervisor/staff. All material and workmanship will be warranted for one year from completion. (Ord. 2011-6-7, passed 6-6-2011)

§ 53.03 SUMP PUMPS.

(A) *Purpose.* The City Council finds that the discharge of water from roof, surface, ground water sump pump, footing tile or swimming pool or other natural precipitation of the city sanitary sewage system will, and has on numerous occasions in the past, flooded and overloaded the sanitary sewage system to such an extent as to cause significant and grave damage to the waste treatment plan and sanitary sewer system. Such damage is caused by the backup of sewage into the lift station and private properties. The City Council, therefore, finds it essential to the minimization of damage to property that the provisions of this section be strictly enforced to avoid emergencies in the future.

(B) *Prohibition against discharges into sanitary sewer system.* No water from any roof, surface, ground water, sump pump, footing tile, swimming pool or other natural precipitation shall be discharged into the sanitary sewer system. Dwellings and other buildings and structures which require, because of infiltration of water into basements, crawl spaces and the like, a sump pump discharge system, shall have a permanently installed discharge line which shall not at any time discharge water into the sanitary sewer system, except as provided herein. A **PERMANENTLY INSTALLED DISCHARGE LINE** shall be one which provides for year-round discharge capability to either the outside of the dwelling, building or structure, or is connected to the city storm sewer or discharges through the curb and gutter to the street. It shall consist of a rigid discharge line, without valving or quick connections for altering the path of discharge.

(C) *Exceptions.* In certain locations where surface storm water discharge would create a safety hazard during freezing weather, connection to the sanitary sewer, may be maintained from November 1 to April 1. In no case shall any connection to the sanitary sewer be maintained from April 1 to November 1. Exceptions will be granted by permit on a case by case basis as determined by the City Inspector.

(D) *Disconnection.* Before any person, firm or corporation having a roof surface, ground water, sump pump, footing tile or swimming pool now connected and/or discharging into the sanitary sewer system shall disconnect and/or remove the same. Any disconnects or openings in the sanitary sewer shall be closed in an effective, workmanlike manner, as approved by the city.

(E) *Inspection.*

(1) Every person owning improved real estate that discharges into the city's sanitary sewer system shall be subject to city employee(s) inspections of his or her buildings to confirm that there is no sump pump or other prohibited discharge into the sanitary sewer system. Any person refusing to allow his or her property to be inspected shall immediately become subject to the surcharge hereinafter provided for. Any property found to violate this division (E)(1) shall make the necessary changes to comply with this division (E) and such changes shall be verified by city employee(s).

(2) In lieu of having inspection by a city employee(s), the property owner shall furnish a certificate from a licensed plumber in a form acceptable to the city certifying that the property has no prohibited discharge into the municipal sanitary sewer system.

(F) *Future inspections.*

(1) Inspections shall be performed by city employees(s) in an unsystematic, random manner of any property owner that owns improved real estate which is connected to the city's sanitary sewer system. Such property owner shall, within 30 days after written notice from the city:

(a) Allow an employee of the city to inspect both the inside and outside of buildings located on the property to confirm that there is no prohibited discharge into the municipal sanitary sewer system; or

(b) In lieu of having inspection by a city employee, the property owner may furnish a certificate from a licensed plumber, in a form acceptable to the city, certifying that the property has no prohibited discharge into the municipal sanitary sewer system. Failure to provide such certificate of compliance within the above time shall make the property immediately subject to the surcharge hereinafter provided for until the property is inspected and/or compliance is met, including any penalties and remedies that the city has provided in its policies and codes, by way of assessments, and administrative expenses in achieving compliance.

(2) The Council may, by resolution, provide for a waiver by reason of hardship from the requirements of this section.

(G) *Waivers.*

(1) The City Council shall have the power and duty of hearing and deciding requests for waivers from the applicability of the provisions of this section where strict enforcement would cause

undue hardship because of circumstances unique to the individual property under consideration or cause a safety problem. This would also include cases that would not be practical or feasible to correct the clear water discharge problem.

(2) Application for waivers pursuant to this section shall be addressed in writing to the city's Finance Office. The applications shall, at minimum, identify the property for which the waiver is being applied for, the name of the property owner/applicant, and describe in detail what characteristics of the subject property create an undue hardship. Within a reasonable time, the City Council shall make its decision on the matter and send a copy of such decision to the applicant by regular mail.

(3) Upon approval of an application for a waiver, a property owner shall be allowed to discharge directly into the sanitary sewer system for the time specified in the City Council's written decision. The applicant will be required to agree to pay an additional fee for the additional sewer service, along with the regular monthly charge. Fees for this service will be based on estimated yearly average amounts discharged to the sanitary sewer.

(Ord. 2011-9-13, passed 11-7-2011) Penalty, see § 53.99

§ 53.99 PENALTY.

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

(B) All properties found to have violated § 53.03 of this chapter will be subject to the following penalties.

(1) A surcharge of \$100 for each month until the property owner submits proof to the city that the property is brought into full compliance.

(2) In addition to the \$100 charge, a property owner or other person who is not in compliance with § 53.03 of this chapter may be mailed, by regular mail, a notice that such violation shall cease and desist within a time limit provided by the City Council.

(3) If such violation does not cease and desist by the established time limit, the person violating § 53.03 of this chapter shall be guilty of a misdemeanor.
(Ord. 2011-9-13, passed 11-7-2011)

TITLE VII: TRAFFIC CODE

Chapter

- 70. GENERAL PROVISIONS**
- 71. TRAFFIC AND PARKING RULES**
- 72. RECREATIONAL VEHICLES**
- 73. TRAFFIC SCHEDULES**
- 74. PARKING SCHEDULES**
- 75. AUTO IMPOUNDMENT**

CHAPTER 70: GENERAL PROVISIONS

Section

General Provisions

- 70.01 Definitions
- 70.02 Duty to obey

Traffic-Control Devices

- 70.15 Authorization to install
- 70.16 Unauthorized display prohibited
- 70.17 Interference prohibited
- 70.18 Crosswalks
- 70.19 Safety zones and lanes

GENERAL PROVISIONS

§ 70.01 DEFINITIONS.

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

AUTHORIZED EMERGENCY VEHICLE. Vehicles of the Fire Department (fire patrol), police vehicles and such ambulances and emergency vehicles of municipal departments or public service corporations as are designated or authorized by the Chief of Police.
(Prior Code, § 10.04.020)

BUSINESS DISTRICT. Includes the territory contiguous to a highway or street when 50% or more of the frontage thereon for a distance of 300 feet or more is occupied by buildings in use for business.
(Prior Code, § 10.04.030)

CROSSWALK. The portion of a roadway ordinarily included within the prolongation of curb and property lines at intersections, or any other portion of a roadway clearly indicated for pedestrian crossing by lines or other markings on the surface.
(Prior Code, § 10.04.040)

INTERSECTION. The area embraced within the prolongation of the lateral curb lines or, if none, then the lateral boundary lines of two or more streets or highways which join one another at an angle, whether or not one such street or highway crosses the other.
(Prior Code, § 10.04.050)

MOTOR VEHICLE. Every vehicle, as defined in this chapter, which is self-propelled.
(Prior Code, § 10.04.060)

OPERATOR. Any person who is on actual physical control of a vehicle.
(Prior Code, § 10.04.070)

PARKING. The standing of a vehicle whether attended or unattended, upon a roadway or street otherwise than temporarily for the purpose of and while actually engaged in loading or unloading or in obedience to traffic regulations or traffic signs or signals.
(Prior Code, § 10.04.080)

RESIDENTIAL DISTRICT. Includes the territory contiguous to a highway not comprising a business district when the frontage of such highway for a distance of 300 feet or more is mainly occupied by dwellings and buildings not in use for business.
(Prior Code, § 10.04.090)

VEHICLE. Every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human power or used exclusively upon a stationary rails or tracks.
(Prior Code, § 10.04.100)

§ 70.02 DUTY TO OBEY.

Any person propelling any push cart or riding a bicycle or an animal upon a roadway and every person driving any animal shall be subject to the provisions of this title applicable to the operator of any vehicle, except those provisions of this traffic code with reference to the equipment of vehicles and except those provisions which, by their very nature, can have no application.
(Prior Code, § 10.08.010)

TRAFFIC-CONTROL DEVICES

§ 70.15 AUTHORIZATION TO INSTALL.

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

(B) Subject to this selection, the Chief of Police is authorized, and as to those signs and signals required hereunder, it shall be his or her duty to place and maintain or cause to be placed and maintained all official traffic signs and signals. All signs and signals required hereunder for a particular purpose shall be as approved by the City Council and, as far as practicable, standard throughout the city.

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

(Prior Code, § 10.12.010)

§ 70.16 UNAUTHORIZED DISPLAY PROHIBITED.

It is unlawful for any person to place or maintain or to display upon or in view of any street any unofficial sign, signal or device which purports to be or is an imitation of or resembles an official traffic sign or signal, or which attempts to direct the movement of traffic. Every such prohibited sign, signal or device is declared to be a public nuisance, and the Chief of Police is empowered to remove the same, or cause it to be removed without notice.

(Prior Code, § 10.12.040) Penalty, see § 10.99

§ 70.17 INTERFERENCE PROHIBITED.

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

(Prior Code, § 10.12.050) Penalty, see § 10.99

§ 70.18 CROSSWALKS.

The Chief of Police, with the approval of the City Council, is authorized to establish and to designate and shall thereafter maintain, by appropriate devices, marks or line upon the surface of the roadway, crosswalks approximately equal in width to the adjacent sidewalk at all intersections where, in his or her opinion, there is particular danger to pedestrians crossing the roadway.

(Prior Code, § 10.12.060)

§ 70.19 SAFETY ZONES AND LANES.

(A) The Chief of Police, with the approval of the City Council, is empowered to establish safety zones of such kind and character and at such places as he or she may deem necessary for the protection of pedestrians.

(B) The Chief of Police, with the approval of the City Council, is also authorized to mark lanes for traffic on street pavements at such places as he or she may deem advisable, consistent with the provisions of this traffic code.

(Prior Code, § 10.12.070)

CHAPTER 71: TRAFFIC AND PARKING RULES

Section

Traffic Regulations

71.01 Speed limits generally

Parking Regulations

- 71.15 Restricted parking signs
- 71.16 Removal of illegally parked vehicles
- 71.17 Parking over 48 hours prohibited

TRAFFIC REGULATIONS

§ 71.01 SPEED LIMITS GENERALLY.

Any person driving a vehicle on a street or highway shall drive the same at a careful and prudent speed not greater than is reasonable and proper, having due regard to the traffic, surface and width of the street or highway and to any other conditions existing, and no person shall drive any vehicle upon a highway or street at such a speed as to endanger the life, limb or property of any person.
(Prior Code, § 10.16.010) Penalty, see § 10.99

PARKING REGULATIONS

§ 71.15 RESTRICTED PARKING SIGNS.

The Chief of Police, with the approval of the City Council, is authorized to limit or prohibit parking in such places and at such times as in his, her and its discretion is necessary by reason of traffic or other local conditions and to place at such restricted or limited spaces appropriate signs indicating such restriction or limitations and it is unlawful for any vehicle to park in such restricted or limited area contrary to the regulations as indicated by the signs.
(Prior Code, § 10.28.060) Penalty, see § 10.99

§ 71.16 REMOVAL OF ILLEGALLY PARKED VEHICLES.

Any vehicle, machinery or farm implement parked in violation of this subchapter may be removed from the streets by the Police Department and placed in public storage and the owner thereof, in addition to the fines and penalties provided for violation of this traffic code, shall pay the charges for towing and storing of the vehicle removed by the Police Department and such vehicle, farm machine or implement shall not be released until such fees and costs have been paid. All money so collected by the Police Department shall be immediately deposited with the city's Finance Officer.

(Prior Code, § 10.28.090)

§ 71.17 PARKING OVER 48 HOURS PROHIBITED.

(A) It is unlawful for any person, persons, firms or corporation to park or leave standing any motor vehicle, tractor, trailer or farm implement, or machinery, upon or along any streets, alleys or boulevards within the city limits, continuously for a period of time longer than 48 hours.

(B) Any vehicle parked or left standing in violation of division (A) above may be removed by the Police Department or the Street Department, and placed in public storage, and the owner thereof, in addition to all other penalties prescribed for violation of a city ordinance, shall be required to pay the costs of towing or storage, and such vehicle, trailer, tractor, farm implement or machinery shall not be released until such fees and costs have been paid.

(Prior Code, § 10.28.100) (Ord. 231, passed - -1965) Penalty, see § 10.99

CHAPTER 72: RECREATIONAL VEHICLES

Section

General Provisions

72.01 Traffic laws to apply to bicycles

Golf Carts

72.15 Definitions
72.16 Operation generally
72.17 Operator requirements
72.18 Seating

Snowmobiles

72.30 Registration and licensing
72.31 Regulation of the movement
72.32 In declared emergency
72.33 Use as per exceptions
72.34 Equipment required
72.35 Unattended vehicles
72.36 Towing
72.37 Standards
72.38 Approved routes

72.99 Penalty

GENERAL PROVISIONS**§ 72.01 TRAFFIC LAWS TO APPLY TO BICYCLES.**

Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this act, except as to special regulations in this traffic code and except as to those provisions of this act which, by their nature, can have no application. (Prior Code, § 10.40.010)

GOLF CARTS**§ 72.15 DEFINITIONS.**

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

GOLF CART. A wheeled vehicle originally and specifically designed and intended to transport one or more individuals and golf clubs for the purpose of playing the game of golf on a golf course.

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

OWNER. Any person other than a lien holder having legal title or ownership to a golf cart and entitled to the use or possession thereof.
(Prior Code, § 10.60.010) (Ord. 2010-5-3, passed 8-5-2010)

§ 72.16 OPERATION GENERALLY.

(A) Golf carts shall not be allowed to operate within the city, except as authorized by state statute or by this subchapter. Golf carts properly registered pursuant to this subchapter shall be allowed to travel on the roadway portion of public streets, alleys and other roadways within the city, except those highways where golf carts are prohibited by state statute.

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

(Prior Code, § 10.60.020) (Ord. 2010-5-3, passed 8-5-2010) Penalty, see § 72.99

§ 72.17 OPERATOR REQUIREMENTS.

It is unlawful to operate a golf cart on the streets, alleys, roadways or other public places within the city limits unless the operator has a valid driver's license or permit and proof of insurance. It is unlawful for any person to board or alight from a golf cart while the golf cart is in motion.

(Prior Code, § 10.60.030) (Ord. 2010-5-3, passed 8-5-2010) Penalty, see § 72.99

§ 72.18 SEATING.

It shall be unlawful for more than two people to occupy the front seat while the golf cart is in motion. In golf carts equipped with a rear seat, no more than two people may occupy the rear seat while the cart is in motion.

(Prior Code, § 10.60.050) (Ord. 2010-5-3, passed 8-5-2010) Penalty, see § 72.99

SNOWMOBILES**§ 72.30 REGISTRATION AND LICENSING.**

(A) Snowmobiles must be registered and licensed.

(B) Snowmobiles must be registered and licensed in order to be operated within the municipality, in order to travel into and out of the municipality.

(C) Operators of the snowmobiles must be licensed.

(Prior Code, § 10.50.010) (Ord. 2008-1-1, passed 2-4-2008)

§ 72.31 REGULATION OF THE MOVEMENT.

Snowmobiles are to be operated on the shoulder of the roadway or as close as possible, along the designated routes in and out of the municipality. Operation on public property is prohibited, and operation, crossing, private property done only with the owner's consent. All traffic laws apply to snowmobiles and operators, and where practical, state laws will be utilized for enforcement thereof. Snowmobiles are to utilize snowmobile routes going out of and into the municipality. The only operation of snowmobiles within the municipality will be going to and from the designated routes, and on the designated routes in and out. No person shall operate a snowmobile on private property of his or her own or another between the hours of 10:00 p.m. and 7:00 a.m. the following day; except that, a person returning to his or her residence as hereinbefore provided may do so after the hour of 10:00 p.m.

(Prior Code, § 10.50.020) (Ord. 2008-1-1, passed 2-4-2008) Penalty, see § 72.99

§ 72.32 IN DECLARED EMERGENCY.

In a declared emergency, the above regulations may be lifted in order to assist the public's welfare and being.

(Prior Code, § 10.50.030) (Ord. 2008-1-1, passed 2-4-2008)

§ 72.33 USE AS PER EXCEPTIONS.

The operator of a snowmobile shall be subject to all existing traffic ordinances of the city and traffic laws of the state and in addition, such operator shall:

(A) Display a lighted headlight and taillight at all times during such an operation;

(B) Slow speed of such snowmobile to 15 mph or less when entering any uncontrolled intersection; and

(C) Have a valid South Dakota driver's license in his or her possession.

(Prior Code, § 10.50.040) (Ord. 2008-1-1, passed 2-4-2008) Penalty, see § 72.99

§ 72.34 EQUIPMENT REQUIRED.

All snowmobiles operated within the city shall have the following equipment:

(A) Mufflers which are properly attached and which reduce the noise of operation of the vehicle to the minimum noise necessary for operating the vehicle, and no person shall use a muffler cutout, bypass or similar device on such vehicle;

(B) Adequate brakes in good working condition; and

(C) A safety or "dead man" throttle in operating condition, such device which when the pressure is removed from the accelerator, the throttle causes the motor to disengage from the driving track.

(Prior Code, § 10.50.050) (Ord. 2008-1-1, passed 2-4-2008) Penalty, see § 72.99

§ 72.35 UNATTENDED VEHICLES.

No owner or operator of a snowmobile shall leave or allow the snowmobile to be or remain unattended on public property or streets while the motor is running or where the keys for starting the vehicle are left in the ignition.

(Prior Code, § 10.50.060) (Ord. 2008-1-1, passed 2-4-2008) Penalty, see § 72.99

§ 72.36 TOWING.

No person operating a snowmobile shall tow any person or object behind such snowmobile, except when such a person or object is situated upon a conveyance which is attached to such snowmobile by means of a rigid hitch or towbar.

(Prior Code, § 10.50.070) (Ord. 2008-1-1, passed 2-4-2008) Penalty, see § 72.99

§ 72.37 STANDARDS.

The standards herein are to be at least as stringent as state law. In accordance with SDCL § 6-12-5, standards, requirements, fines will not be lower or less stringent than those imposed by state law.

(Prior Code, § 10.50.080) (Ord. 2008-1-1, passed 2-4-2008)

§ 72.38 APPROVED ROUTES.

Approved town routes are as follows:

(A) Mannston Street, north and south;

(B) Blaine Avenue, east and west;

(C) Court Street, east and west; and

(D) Garfield Avenue, east and west.

(Prior Code, § 10.50.090) (Ord. 2008-1-1, passed 2-4-2008)

§ 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 of this code of ordinances.

(B) Any person violating the provisions of §§ 72.15 through 72.18 of this chapter shall be deemed guilty of a misdemeanor and shall, upon conviction thereof, be punished as set forth in § 10.99 of this code of ordinances.

(Prior Code, § 10.60.060)

(C) Violations of §§ 72.30 through 72.38 of this chapter shall be a Class 2 misdemeanor, imposing a \$50 fine, plus court costs of \$51. The court costs may increase yearly.

(Prior Code, § 10.50.080)

(Ord. 2008-1-1, passed 2-4-2008; Ord. 2010-5-3, passed 8-5-2010)

CHAPTER 73: TRAFFIC SCHEDULES

Schedule

- I. Speed limits
- II. Weight restrictions

SCHEDULE I. SPEED LIMITS.

(A) It is prima facie unlawful to exceed any of the following limitations:

<i>Street</i>	<i>Location</i>	<i>Speed Limit (mph)</i>
	Passing schools or school grounds during recess or while children are going to or leaving school during the opening or closing hours	15
Blaine Street	From East Street to Main Street	20
Commercial Avenue	From East Street to Main Street	20
East Street	From King Street to Garfield Avenue	20
Exene Street	From Fifth Street to Garfield Avenue	20
Logan Avenue	From East Street to Main Street	20
Main Street	From King Street to Garfield Avenue	20
Mannston Street	From the intersection of U.S. Highway #212 (Garfield Avenue) south to city limits	30
Nebraska Street	From the intersection of Logan Avenue north to the intersection of U.S. Highway #212	35

(B) Such speed limit as may be from time to time established and posted on that portion of Garfield Avenue, which is also designated as U.S. Highway #212, by the state's Department of Transportation Division of Highways.

(C) Twenty-five mph on all other streets in the city, excepting the restricted zones established hereby, or as otherwise posted by direction of the City Council.

(Prior Code, § 10.16.020) (Ord. 248, passed - -1970; Ord. 264, passed - -1974; Ord. 270, passed - -1975; Ord. 302, passed - -1981; Ord. 2004-8-5, passed 9-2-2004)

SCHEDULE II. WEIGHT RESTRICTIONS.

(A) (1) It shall be unlawful to operate a motor vehicle exceeding 6,000 pounds per axle gross weight on:

<i>Street</i>	<i>Location</i>
Custer Avenue	From Nebraska Street to High Street
Custer Avenue	From Mannston Street to one-half block west of East Street
Exene	From Garfield to railway
Logan Avenue	West of Nebraska Street

(2) These restrictions do not apply to recreational vehicles.
(Prior Code, § 10.18.010)

(B) The town's Police Department is authorized to stop motor vehicles suspected to exceed the weight restrictions provided herein, and have the vehicle weighed at the closest public scale within the city.
(Prior Code, § 10.18.020)

(C) Any vehicle found to be in violation of the weight restrictions provided herein shall be fined not to exceed \$100 for each offense.
(Prior Code, § 10.18.030)
(Ord. 337, passed - -1990; Ord. 2003-3-5, passed - -2003; Ord. 2004-9-8, passed 9-20-2004)

CHAPTER 74: PARKING SCHEDULES

Schedule

- I. Restricted parking
- II. Parallel and diagonal parking

SCHEDULE I. RESTRICTED PARKING.

(A) *Parking of vehicles for sale or repair.* It is unlawful for any person, persons, firm or corporation to park or leave standing any motor vehicle, tractor or trailer or farm implement or other machinery kept for sale or repair upon and along the following named streets in the city:

<i>Street</i>	<i>Location</i>
Blaine Avenue	Between Main Street to Exene Street
Commercial Avenue	Between Main Street and East Street
East Street	Between Blaine Avenue and Commercial Avenue
Exene Street	Between Blaine Avenue and Logan Avenue
Main Street	Between the intersection of Blaine Avenue and Logan Avenue

(Prior Code, § 10.28.080)

(B) *Streets designated as “no parking”.*

<i>Intersection</i>
Blaine Avenue between Harrison Street and Prospect Street
North side of Blaine and west side of Harrison: 70 feet marked in yellow paint with “No Parking” sign installed
North side of King and west side of Mannston: 70 feet marked in yellow paint with “No Parking” sign installed

(Prior Code, § 10.28.120)

(Ord. 2019-3-4, passed 5-6-2019; Ord. 2021-02-01, passed 3-1-2021) Penalty, see § 10.99

SCHEDULE II. PARALLEL AND DIAGONAL PARKING.

(A) No vehicles shall be parked on any street, except such vehicle be parked parallel to the curb headed in the direction of the traffic, with the curb side wheels of the vehicle within 12 inches of the curb and not closer than four feet to any other vehicle front or rear, except upon those streets designated or marked for angle or diagonal parking and upon those streets marked for angle or diagonal parking a vehicle shall be parked at an angle to the curb indicated by marks or signs with the front wheel touching the curb and the left wheel approximately six feet from such curb, at approximately a 45-degree angle.

(B) Streets designated diagonal parking:

<i>Location</i>	<i>Side(s)</i>
Commercial from East to Main	Both sides
East from Blaine to Commercial	Both sides
East from Commercial to the alley	West side only
Exene from Blaine to Commercial	Both sides
Exene from Commercial to alley	East side
Exene from Commercial to Logan	West side
Logan from Exene to Main	North side only
Main from Blaine to Commercial	Both sides

(Prior Code, § 10.28.030) (Ord. 2012-2-3, passed 3-5-2012) Penalty, see § 10.99

CHAPTER 75: AUTO IMPOUNDMENT

Section

- 75.01 Purpose
- 75.02 Standards for impoundment
- 75.03 Towing and storage
- 75.04 Procedures for impoundment
- 75.05 Search incident to impoundment based on criminal activity
- 75.06 Disposition of vehicles after impoundment

§ 75.01 PURPOSE.

This chapter provides the standards and procedures for the Gettysburg Police Department personnel when towing, inventorying, searching, impounding, and disposing of privately owned vehicles (POVs). This policy is based on:

(A) The interests of the Services and DLA in crime prevention, traffic safety, and the orderly flow of vehicle traffic movement.

(B) The vehicle owner's constitutional rights to due process, freedom from unreasonable search and seizure, and freedom from deprivation of private property.
(Ord. 2022-01-03, passed 2-7-2022)

§ 75.02 STANDARDS FOR IMPOUNDMENT.

(A) POVs should not be impounded unless the vehicles clearly interfere with ongoing operations or movement of traffic, threaten public safety or convenience, are involved in criminal activity, contain evidence of criminal activity, or are stolen, the operator has been arrested, detained, or the vehicle has been abandoned.

(B) The impoundment of a POV would be inappropriate when reasonable alternatives to impoundment exist.

(1) Attempts should be made to locate the owner of the POV and have the vehicle removed.

(2) The vehicle may be moved a short distance to a legal parking area and temporarily secured until the owner is found.

(3) Another responsible person may be allowed to drive or tow the POV with permission from the owner, operator, or person empowered to control the vehicle. In this case, the owner, operator, or person empowered to control the vehicle will be informed that law enforcement personnel are not responsible for safeguarding the POV.

(C) Impounding of POVs is justified when any of the following conditions exist:

(1) The POV is illegally parked:

(a) On a street or bridge, in a tunnel, or is double parked and interferes with the orderly flow of traffic.

(b) On a sidewalk, within an intersection, on a crosswalk, on a railroad track, in a fire lane, or is blocking a driveway so that the vehicle interferes with operations or creates a safety hazard to other roadway users or to the general public. An example would be a vehicle parked within 15 feet of a fire hydrant or blocking a properly marked driveway of a fire station or aircraft alert crew facility.

(c) When blocking an emergency exit door or any public place (installation, theater, club, dining hall, hospital, and other facility).

(d) In a "tow-away" zone that is so marked with proper signs.

(2) The POV interferes with:

(a) Street cleaning or snow removal operations and attempts to contact the owner have been unsuccessful.

(b) Emergency operations during a natural disaster or fire or must be removed from the disaster area during cleanup operations.

(3) The POV has been used in a crime or contains evidence of criminal activity.

(4) The owner or person in charge has been apprehended and is unable or unwilling to arrange for custody or removal.

(5) The POV is mechanically defective and is a menace to others using the public roadways.

(6) The POV is disabled by a traffic incident and the operator is either unavailable or physically incapable of having the vehicle towed to a place of safety for storage or safekeeping.

(7) Law enforcement personnel reasonably believe the vehicle is abandoned.

(Ord. 2022-01-03, passed 2-7-2022)

§ 75.03 TOWING AND STORAGE.

(A) Impounded POVs may be towed and stored at the impounded rate of \$25 per day by either the Gettysburg Police Department or a contracted wrecker service depending on availability of towing services and the local commander's preference.

(B) The installation commander will designate an enclosed area on the installation that can be secured by lock and key for an impound lot to be used by the civilian wrecker service. An approved impoundment area belonging to the contracted wrecker service may also be used provided the area assures adequate accountability and security of towed vehicles. One set of keys to the enclosed area will be maintained by the installation law enforcement officer or designated individual.

(C) Temporary impoundment and towing of POVs for violations of the installation traffic code or involvement in criminal activities will be accomplished under the direct supervision of law enforcement personnel.

(Ord. 2022-01-03, passed 2-7-2022)

§ 75.04 PROCEDURES FOR IMPOUNDMENT.

(A) *Unattended POVs.*

(1) DD Form 2504 (Abandoned Vehicle Notice) will be conspicuously placed on POVs considered unattended. This action will be documented by an entry in the installation law enforcement desk journal.

(2) The owner will be allowed three days from the date the POV is tagged to remove the vehicle before impoundment action is initiated. If the vehicle has not been removed after three days, it will be removed by the installation towing service or the contracted wrecker service. If a contracted wrecker service is used, a DD Form 2505 (Abandoned Vehicle Removal Authorization) will be completed and issued to the contractor by the installation law enforcement office.

(3) After the vehicle has been removed, the installation law enforcement officer or the contractor will complete DD Form 2506 (Vehicle Impoundment Report) as a record of the actions taken.

(a) An inventory listing personal property will be done to protect the owner, law enforcement personnel, the contractor, and the commander.

(b) The contents of a closed container such as a suitcase inside the vehicle need not be inventoried. Such articles should be opened only if necessary to identify the owner of the vehicle or if the container might contain explosives or otherwise present a danger to the public. Merely listing the container and sealing it with security tape will suffice.

(c) Personal property must be placed in a secure area for safekeeping.

(4) DD Form 2507 (Notice of Vehicle Impoundment) will be forwarded by certified mail to the address of the last known owner of the vehicle to advise the owner of the impoundment action and request information concerning the owner's intentions pertaining to the disposition of the vehicle.

(B) *Stolen POVs or vehicles involved in criminal activity.*

(1) When the POV is to be held for evidentiary purposes, the vehicle should remain in the custody of the applicable Service or DLA until law enforcement purposes are served.

(2) Recovered stolen POVs will be released to the registered owner, unless held for evidentiary purposes, or to the law enforcement agency reporting the vehicle stolen, as appropriate.

(3) A POV held on request of other authorities will be retained in the custody of the applicable Service or DLA until the vehicle can be released to such authorities.
(Ord. 2022-01-03, passed 2-7-2022)

§ 75.05 SEARCH INCIDENT TO IMPOUNDMENT BASED ON CRIMINAL ACTIVITY.

Search of a POV in conjunction with impoundment based on criminal activity will likely occur in one of the following general situations:

(A) *The owner or operator is not present.* This situation could arise during traffic and crime-related impoundments and abandoned vehicle seizures. A property search related to an investigation of criminal activity should not be conducted without search authority unless the item to be seized is in plain view or is readily discernible on the outside as evidence of criminal activity. When in doubt, proper search authority should be obtained before searching.

(B) *The owner or operator is present.* This situation can occur during either a traffic or criminal incident, or if the operator is apprehended for a crime or serious traffic violation and sufficient probable cause exists to seize the vehicle. This situation could also arise during cases of intoxicated driving or traffic accidents in which the operator is present but incapacitated or otherwise unable to make adequate arrangements to safeguard the vehicle. If danger exists to the police or public, or if there is risk of loss or destruction of evidence, an investigative-type search of the vehicle may be conducted without search authority.
(Ord. 2022-01-03, passed 2-7-2022)

§ 75.06 DISPOSITION OF VEHICLES AFTER IMPOUNDMENT.

(A) If a POV is impounded for evidentiary purposes, the vehicle can be held for as long as the evidentiary or law enforcement purpose exists. The vehicle must then be returned to the owner without delay unless directed otherwise by competent authority.

(B) If the vehicle and vehicle inventory is unclaimed after 30 days from the date notification was mailed to the last known owner, or the owner released the vehicle by properly completing DD Form 2505, the vehicle will be disposed of by one of the following procedures:

(1) Release to the lienholder, if known.

(2) Processed as abandoned property.

(3) Sold by sealed bids by the Gettysburg Police Department with funds being put towards tow fees, with remaining funds going towards impound lot budget.

(C) If vehicle is sold by sealed bid, a completed copy of form SDDOR 1026 along with a bill of sale will be given to the winning bidder at the time of payment.
(Ord. 2022-01-03, passed 2-7-2022)

TITLE IX: GENERAL REGULATIONS

Chapter

- 90. ANIMAL CONTROL**
- 91. HEALTH AND SAFETY; NUISANCES**
- 92. FIREWORKS**

CHAPTER 90: ANIMAL CONTROL

Section

General Provisions

- 90.01 Purpose
- 90.02 Definitions
- 90.03 Licensing requirements
- 90.04 Rabid animals
- 90.05 Authority; enforcement; impoundment

Conditions and Regulations

- 90.20 Types of allowable animals
- 90.21 Number of animals
- 90.22 Running at large prohibited
- 90.23 Animals disturbing the peace; nuisances
- 90.24 Cruelty prohibited
- 90.25 Defecation, excrement removal
- 90.26 Abandonment prohibited
- 90.27 Rabid animals
- 90.28 Transmission of disease
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Vicious Animals

- 90.45 Ownership
- 90.46 Who may declare
- 90.47 Willful trespass or other tort
- 90.48 Notification
- 90.49 Compliance required
- 90.50 Animals off premises may be seized
- 90.51 Kennel standards
- 90.52 Insurance
- 90.53 Licensing requirements
- 90.54 City may impound

90.55 Euthanization

90.56 Prosecution

Statutory reference:

Authority to regulate animals, see SDCL § 9-29-12

GENERAL PROVISIONS

§ 90.01 PURPOSE.

The purpose of this chapter is to describe the conditions and requirements allowing citizens to keep animals within the city.

(Ord. 2019-3-3, passed 4-1-2019)

§ 90.02 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 live creature, both domestic and wild, including mammals (except humans), birds, reptiles, amphibians or fish.

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 County Sheriff's Department staff shall also act as **ANIMAL CONTROL OFFICERS**.

ANIMAL SHELTER. A building and facilities therein which is approved by the governing board 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.

DANGEROUS ANIMAL. Any animal that, by itself or by environmental circumstances, at the determination of any agent or officer of a humane society, or any peace officer after investigation, is a threat to the physical well-being of other owned animals or humans.
(SDCL § 40-1-1(5))

DISTURBANCE. The act of disturbing the peace and quiet of the neighborhood by continuous barking or making other loud or unusual noises.

DOMESTIC ANIMAL. Any animal that, through long association with humans, 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.

FERAL ANIMALS. Any livestock or pets not effectively controlled by any person and exhibiting predatory, scavenger or vicious tendencies.

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 law enforcement 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 by any law enforcement officer, Animal Control Officer or any authorized representative.

INHUMANE TREATMENT. Any act of mistreatment, torture, cruelty, neglect, abandonment, mutilation or inhumane slaughter of an animal that is not consistent with generally accepted training, use and husbandry procedures for the species, breed, physical condition and type of animal.
(SDCL § 40-1-2.4)

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.

MISTREATMENT, TORTURE OR CRUELTY OF ANIMALS. Any act or omission whereby unnecessary, unjustifiable or unreasonable physical pain or suffering is caused, permitted or allowed to continue including acts of mutilation.
(SDCL § 40-1-2(9))

NEGLECT. The failure to provide food, water, protection from the elements, adequate sanitation, adequate facilities or care generally considered to be standard and accepted for an animal's health and well-being consistent with the species, breed, physical condition and type of animal.
(SDCL § 40-1-2(10))

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

NUISANCE. The act of destroying or defacing property or causing injury to persons or domestic animals.

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. Note: guide dogs are not considered **PETS**.
(SDCL § 40-12-4)

PROPER ENCLOSURE. A secure confinement, as determined by the board, any agent or officer of a humane society, or any peace officer, indoors or in a securely enclosed or locked facility, suitable to prevent a dangerous animal from escaping and to prevent any physical threat to the well-being of any other animal or human, while not constituting inhumane treatment.
(SDCL § 40-1-1-(11))

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.

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 of 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.

VICIOUS ANIMAL. Any animal which, in a vicious or terrorizing manner, approaches in an apparent attitude of attack or bites, inflicts injury, assaults or otherwise attacks a person or other animal whether on public or private property; provided that, the animal has not been provoked to do so by teasing, tormenting, abusing or assaulting the animal.
(Ord. 2019-3-3, passed 4-1-2019)

§ 90.03 LICENSING REQUIREMENTS.

(A) Any owner of a dog or cat shall make application at the city's Finance Office for the appropriate dog or cat license/tag.

(B) The fee is \$10 for each unspayed or unneutered cat/dog and \$5 for each spayed or neutered cat/dog, payable annually by December 31 for the following year's licensure.
(Ord. 2019-3-3, passed 4-1-2019)

§ 90.04 RABID ANIMALS.

Any time the Animal Control Officer, any law enforcement officer or the state's Animal Industry Board suspects an animal within the city is infected with rabies, the local law enforcement or Animal Control Officer may require it to be impounded for observation as hereinafter provided.

(A) *Report of suspected cases.* Any person who shall suspect that any animal in the city is infected with rabies shall report said animal to the Animal Control Officer, or the local law enforcement, describing the animal and giving the name and address of the owner, if known.

(B) *Impoundment for observation.*

(1) (a) When any owner of an animal has been notified that the animal has bitten or attacked any person, the owner must, within 24 hours, place the animal under the care and observation of the Animal Control Officer, local law enforcement or a licensed veterinarian. The period of observation shall be a period of not less than ten days, except in those cases when an animal has bitten or attacked while

on the premises of the owner and the owner has a current rabies vaccination for the animal. The Animal Control Officer, or any law enforcement officer, may, if he or she feels the facilities are adequate and if the owner is a responsible person, quarantine the animal on the owner's premises.

(b) In this case, the owner must sign a statement and understand the responsibility and assume the liability that is involved with the quarantine of an animal that has bitten.

(c) The quarantined animal must at all times be available for inspection during the quarantine.

(2) At the end of the ten-day observation period, the animal shall be examined by a licensed veterinarian and, if cleared, may be reclaimed by the owner and the owner must pay the expenses incurred incident thereto.

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

(4) Any animal that has bitten or attacked that cannot be captured may be destroyed in such a manner that the head is not damaged and can be submitted for a rabies examination to a laboratory.

(C) Destruction of rabid animals.

(1) Any animal reasonably believed to have rabies and if, under the circumstances, it is not reasonable to impound or to attempt to seize that animal for the purpose of further observation, a law enforcement officer or the Animal Control Officer may destroy the animal.

(2) The owner shall pay any expense incident thereof.

(3) Neither the city, nor any person authorized by this section, shall be liable for the destruction of any animal when done under circumstances as set forth in this section.
(Ord. 2019-3-3, passed 4-1-2019)

Statutory reference:

SDCL §§ 7-12-29, 40-12-0 through 40-12-6

§ 90.05 AUTHORITY; ENFORCEMENT; IMPOUNDMENT.

(A) *Authority.* The Animal Control Officer, any law enforcement officer or other persons of proper authority is hereby authorized and empowered to enforce all provisions of this chapter.

(B) *Interference prohibited.* No person shall hinder, delay or obstruct any person in his or her ability to enforce the provisions of this chapter.

CONDITIONS AND REGULATIONS**§ 90.20 TYPES OF ALLOWABLE ANIMALS.**

No person shall keep, maintain, harbor or have in custody or under control any animal within the city, except as otherwise provided in this chapter.

(A) Allowable small animals/pets include those that can be bought from a commercial pet store in the state, except alligator, crocodile, cayman, raccoon, skunk, fox, bear, sea mammal, poisonous snakes, prairie dogs, poisonous insects, hybrids, member of the feline species other than domestic cat (*felis domesticus*), member of the canine species other than domestic dog (*canis familiaris*) or any other animal that would require a standard of care and control greater than that required for customary household pets; are allowable animals authorized by this chapter and can be kept in the city. A license is required for dogs and cats.

(B) No large domesticated livestock or domesticated fowl of any kind including, but not limited to, horses, cows, goats, swine, sheep, ducks, geese, pigeons, turkeys, guineas and the like are allowed to be kept within the city limits, except at the fairgrounds during special events or with special permission of the county, city or school personnel.

(C) No more than six hen chickens are allowed to be kept within the city limits unless a special license/permission has been granted by the City Council. No roosters are allowed.
(Ord. 2019-3-3, passed 4-1-2019) Penalty, see § 10.99

Statutory reference:

Dealers in poultry, eggs and dairy products, see SDCL § 40-33-3

Eggs and egg products, see SDCL § 39-11-2

§ 90.21 NUMBER OF ANIMALS.

It is unlawful for any person to own or keep in his or her care on any premises more than six animals, of which no more than three can be dogs and three can be cats, over the age of six months (except fish) unless a special license/permission has been granted by the City Council.
(Ord. 2019-3-3, passed 4-1-2019) Penalty, see § 10.99

§ 90.22 RUNNING AT LARGE PROHIBITED.

(A) No owner of any animal shall permit such animal to be at large.

(B) Any owner whose animal is not confined by a leash or enclosed is declared to be running at large and is declared to be a public nuisance. Such violation will be considered a city misdemeanor. The

(C) *Allowable enforcement activities.* Any person authorized to enforce the provisions of this chapter shall, having reasonable basis to believe a violation of this chapter has occurred, have the power to:

- (1) Lawfully enter the premises where the animal(s) is (are) kept;
- (2) Examine such animal; and

(3) Take possession and impound such animal(s), when, in the officer's opinion, a violation has occurred. Any animal impounded under this section shall be dealt with as provided herein.

(D) *Impounded animals.* Any impounded animal shall not be released by the Animal Control Officer or local law enforcement to any person until such animal has been immunized against rabies; provided, no animal so impounded shall be immunized if the owner can present a certificate of current immunization having been previously performed.

(1) *Notice to owner.* The owner of any animal impounded under the provisions of this chapter, if his or her identity and location can be obtained by reasonable means, shall be notified within 24 hours that his or her animal has been impounded.

(2) *Costs.*

(a) Before any person may redeem any animal impounded under the provision of this chapter, he or she shall pay to the city's Finance Officer an impoundment fee of \$20, plus \$8 per day or other actual costs incurred by the city, for feeding and caring of such animal. The person redeeming such impounded animal under the provisions of this chapter shall receive a dated receipt signed by the city's Finance Officer. The receipt for payment of impoundment and boarding costs must be presented to the person, association or corporation housing the impounded animal before such animal may be redeemed.

(b) The owner of any impounded animal that has not been vaccinated or licensed under this chapter, upon satisfactory proof of ownership, may redeem the animal by payment of the fees determined above. In addition, by making a deposit of \$25, the owner shall be allowed 48 hours to get such animal vaccinated and properly licensed. If the owner fails to produce a certificate of vaccination and city license within 48 hours, the deposit shall be forfeited and turned over to the city's Finance Officer to be placed in the General Fund and the animal may be impounded again. Upon representation within 48 hours of a license issued under § 90.04(B) of this chapter, the deposit shall be refunded.

(c) If the owner of any impounded animal shall fail to redeem the animal within 72 hours, excluding Sundays and holidays, unclaimed animals will become the property of the contracted animal control organization. Unclaimed animals may be put up for adoption or disposed of at the discretion of that organization.

(Ord. 2019-3-3, passed 4-1-2019)

local law enforcement agency or a designated Animal Control Officer is authorized to catch any animal running at large or causing a nuisance.

(Ord. 2019-3-3, passed 4-1-2019) Penalty, see § 10.99

§ 90.23 ANIMALS DISTURBING THE PEACE; NUISANCES.

(A) No person owning any dog or other animal confined on the premises or otherwise shall permit such animal to disturb the peace and quiet of the neighborhood by making loud and/or unusual noises.

(B) (1) As determined by local law enforcement, or upon a signed complaint with the designated Animal Control Officer or the County Sheriff's Department, that any person is keeping or harboring any animal which disturbs the peace, it shall be the duty of the local law enforcement agency or a designated Animal Control Officer to notify the owner of such animal in writing of such complaint and, after such owner has been given 48 hours' notice of such habit, any law enforcement officer or person of proper authority is authorized to impound any such dog or animal so disturbing the peace.

(2) In addition to the impounding fees, each violation shall be considered a city misdemeanor.
(Ord. 2019-3-3, passed 4-1-2019) Penalty, see § 10.99

§ 90.24 CRUELTY PROHIBITED.

No person shall cruelly torture, beat or injure any domestic animal, nor shall any person willfully or intentionally abuse or neglect in a cruel or inhuman manner any such animal.

(Ord. 2019-3-3, passed 4-1-2019) Penalty, see § 10.99

§ 90.25 DEFECATION, EXCREMENT REMOVAL.

(A) No owner of any animal shall allow such animal to defecate on public or private property other than his or her own property.

(B) If an animal does defecate on public or private property, the owner shall immediately clean the fecal matter from such property.

(Ord. 2019-3-3, passed 4-1-2019) Penalty, see § 10.99

§ 90.26 ABANDONMENT PROHIBITED.

It is unlawful for any person to abandon an animal in the city.

(Ord. 2019-3-3, passed 4-1-2019) Penalty, see § 10.99

§ 90.27 RABID ANIMALS.

No person shall knowingly keep any animal infected with rabies or any animal that has been bitten by an animal that has been infected with rabies.

(Ord. 2019-3-3, passed 4-1-2019) Penalty, see § 10.99

§ 90.28 TRANSMISSION OF DISEASE.

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

(Ord. 2019-3-3, passed 4-1-2019) Penalty, see § 10.99

§ 90.29 POISON.

Unless recommended by a veterinarian, it shall be unlawful for any person to:

(A) Willfully administer or cause to be administered, poison of any sort whatsoever to any animal, that is the property of another with the intent to injure or destroy such animal; or

(B) Willfully place any poison or poisoned food where the same is accessible to any such animal.
(Ord. 2019-3-3, passed 4-1-2019) Penalty, see § 10.99

§ 90.30 HUNTING, TRAPPING AND DESTRUCTION.

No person shall hunt, trap or otherwise injure or destroy any animal within the city. This provision shall not apply to licensed veterinarians, law enforcement officers or Animal Control Officers.

(Ord. 2019-3-3, passed 4-1-2019) Penalty, see § 10.99

VICIOUS ANIMALS**§ 90.45 OWNERSHIP.**

(A) Any person owning or keeping a vicious dog, as defined in SDCL §§ 40-34-13 through 40-34-14 or any corresponding state law, or any person owning or keeping a vicious animal has committed a public nuisance and is subject to the provisions of SDCL §§ 21-10-4, 21-10-9 or corresponding state law.

(B) No person shall permit feral animals, or vicious animals of any type, to remain upon property owned or occupied by any person within the city. Such animals must be promptly reported to local law enforcement or Animal Control Officer and the city's Finance Office. The sole exceptions to this prohibition is a guard dog that is professionally trained and fully controlled by voice command, or a dog that is enclosed within a pen or proper enclosure so that it is inaccessible to children or other pets. Any excepted animal shall be licensed and registered with the city and the exception will be made of record on the certificate of registration.

(Ord. 2019-3-3, passed 4-1-2019) Penalty, see § 10.99

§ 90.46 WHO MAY DECLARE.

The Mayor, Animal Control Officer, a law enforcement officer or an attending physician of any victim of an animal bite or scratch may declare an animal vicious.

(Ord. 2019-3-3, passed 4-1-2019)

§ 90.47 WILLFUL TRESPASS OR OTHER TORT.

No animal may be declared vicious if the injury or damage is sustained to any person or animal that is committing a willful trespass or other tort or criminal act upon premises occupied by the owner or keeper of the animal.

(Ord. 2019-3-3, passed 4-1-2019)

§ 90.48 NOTIFICATION.

When an animal is declared to be vicious as provided for above, the city's acting law enforcement agency shall notify the owner or keeper of said animal of said declaration in writing that such animal is vicious. Such notice shall be served either in person or by certified mailed within 48 hours of such declaration.

(Ord. 2019-3-3, passed 4-1-2019)

§ 90.49 COMPLIANCE REQUIRED.

The owner or keeper of an animal that has been declared vicious then must comply with the following.

(A) If the animal is kept indoors, the animal shall be under the control of a person over 18 years of age.

(B) 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.

(C) If the animal is outdoors and unattended, the animal must be locked in an escape proof pen or proper enclosure approved by local law enforcement or Animal Control Officer.
(Ord. 2019-3-3, passed 4-1-2019) Penalty, see § 10.99

§ 90.50 ANIMALS OFF PREMISES MAY BE SEIZED.

(A) Any vicious animal found off the premises of its owner or caretaker, other than as provided for in this chapter, shall be seized by the Animal Control Officer or any law enforcement officer and impounded.

(B) If the animal cannot be captured, it may be destroyed.

(C) If the animal has been running at large, or bites a person, or bites another animal, the Animal Control Officer or any law enforcement officer may order the owner to deliver the animal to the animal shelter within 24 hours.

(D) The owner shall be ordered to appear to show just cause why this animal shall not be destroyed.

(E) If the owner of the animal fails to deliver the animal as ordered, the Animal Control Officer or any law enforcement officer shall use such means as is necessary to impound the animal.
(Ord. 2019-3-3, passed 4-1-2019)

§ 90.51 KENNEL STANDARDS.

Minimum standards shall include the following.

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

(B) Any gates within 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 a top and bottom with both secured to the sides.

(D) The pen or structure shall 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 within reach of the animal.

(F) A 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.
(Ord. 2019-3-3, passed 4-1-2019) Penalty, see § 10.99

§ 90.52 INSURANCE.

The owner shall carry a minimum of \$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 local law enforcement and the city's Finance Office. (Ord. 2019-3-3, passed 4-1-2019)

§ 90.53 LICENSING REQUIREMENTS.

The owner shall comply with the licensing requirements of the city ordinances as required in § 90.04(B) of this chapter and present proof of a current rabies vaccination. (Ord. 2019-3-3, passed 4-1-2019)

§ 90.54 CITY MAY IMPOUND.

The city, local law enforcement or Animal Control Officer, at the owner or keeper's expense, may impound the vicious animal until such time as all provisions outlined above are complied with. (Ord. 2019-3-3, passed 4-1-2019)

§ 90.55 EUTHANIZATION.

If the conditions outlined above are not complied with, the owner shall euthanize the animal in a humane manner. Proof of euthanasia shall be filed with the city office. (Ord. 2019-3-3, passed 4-1-2019)

§ 90.56 PROSECUTION.

The owner may be subject to prosecution for failure to comply. Animals impounded under this subchapter shall be dealt with as provided herein. (Ord. 2019-3-3, passed 4-1-2019)

CHAPTER 91: HEALTH AND SAFETY; NUISANCES

Section

General Provisions

- 91.01 Board of Health; Health Officer
- 91.02 Littering

Nuisances

- 91.15 Defined; prohibited
- 91.16 Public nuisance defined
- 91.17 Notice to abate
- 91.18 Abatement of nuisance
- 91.19 Special assessment of costs of abatement

Grass and Weeds

- 91.30 Duty of owner
- 91.31 Notice to destroy
- 91.32 Action upon non-compliance
- 91.33 Cost assessment
- 91.34 Recovery by city

- 91.99 Penalty

GENERAL PROVISIONS

§ 91.01 BOARD OF HEALTH; HEALTH OFFICER.

(A) *Composition.* The Board of Health and Safety shall be composed of one Council member from each ward of the city to be appointed by the Mayor and confirmed by the Council at the first meeting in May of each year.

(Prior Code, § 8.04.010)

(B) *Health Officer; qualifications; appointment.* The Health Officer of the city shall be a physician, health care administrator, registered nurse or a resident of the city who shall be appointed by the Mayor and confirmed by the Council at the first meeting in May of each year and the Health Officer to hold office until his or her successor has been appointed and qualified.

(Prior Code, § 8.04.020)

(C) *Secretary.* The city's Finance Officer shall act as Secretary of the Board of Health and Safety and shall keep such records as may be required by the Board.

(Prior Code, § 8.04.030)

(D) *Powers and duties.* The Board of Health shall exercise supervision over the health of the city, with full power to take all steps and measures necessary to promote the health, safety and welfare of the community and to enforce the removal of any nuisance, contagious or infectious disease, vermin, physical obstruction, unsafe or unclean condition, or any other hazard that threatens the health, safety and welfare of the community. The Board of Health shall have the power and authority, upon notice, to enter any premises in the city to inspect and to search for any said condition and shall have the power and authority to quarantine and/or issue citations or criminal complaints against any person failing to remedy said condition pursuant to the penalty and enforcement provisions of this chapter.

(Prior Code, § 8.04.040)

(E) *Health Officer; duties.*

(1) In addition to the duties herein described by and for the Board of Health, the Health Officer shall inspect and investigate complaints regarding the health, safety and welfare of the community, and shall also perform such duties as may be from time to time designated by the City Council.

(2) A report shall be issued regarding said complaints for consideration by the Council as to any action it may take to abate or otherwise correct the health hazard or nuisance.

(Prior Code, § 8.04.050)

(F) *Notices.* Any notices required by this chapter or by the rules and regulations of the Board of Health shall be in writing, signed by the Health Officer and shall be served by the Police Department, and any failure of any person to comply with any such notice shall be subject to the penalties as hereinafter in this chapter set forth.

(Prior Code, § 8.04.060)

(Ord. 1995-3, passed - -1995)

§ 91.02 LITTERING.

(A) No person shall dump, deposit, drop, throw, discard, leave, cause, or permit the dumping, depositing, dropping, throwing, discarding or leaving of litter upon any public street, alley, highway, boulevard or way, or on any public park or other public property, or on any private property within the city limits used by automobiles, vehicles, livestock or persons, upon private lands and property of any

person or persons without the permission of the owner thereof, and any and all persons who violates the provisions of this section shall be deemed guilty of a misdemeanor, and punished as provided in § 10.99 of this code of ordinances.

(B) The term *LITTER* is any discarded, used, or consumed substance or waste. The term *LITTER* may include, but is not limited to, any garbage, trash, refuse, debris, rubbish, grass clippings, or other lawn or garden waste, newspaper, magazines, glass, bottles, metal, tin cans, boxes, plastic or paper containers or other packaging construction material, furniture, oil, carcass of a dead animal, any nauseous or offensive matter of any kind, any object likely to injure a person or create a traffic hazard, or any other deleterious article, material, substances or refuse, or anything else of an unsightly or unsanitary nature, which has been discarded, abandoned or otherwise disposed of improperly. (Prior Code, § 8.32.010) (Ord. 230, passed - -1965; Ord. 2022-11-07, passed 12-5-2022) Penalty, see § 91.99

NUISANCES

§ 91.15 DEFINED; PROHIBITED.

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

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

(1) *Abandoned property.* Any junk car, car bodies 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 it unsightliness. Unsightly trash or junk includes property which is deteriorated, wrecked or derelict property in unusable condition, having no value other than nominal scrap or junk value, if any, and which has been left unprotected from the elements outside of a permanent structure, and shall include without being restricted deteriorated, wrecked, inoperative or partially dismantled motor vehicles, trailers, boats, motors, snowmobiles, lawnmowers, motorcycles, campers, refrigerators and other household appliances, furniture, household goods and furnishings, scrap metals or lumber or other similar articles in such condition;

(2) *Garbage and refuse.* Depositing, maintaining or permitting to be maintained or to accumulate upon any public, or private property any animal or vegetable matter which attends the processing, preparation, transportation, cooking, eating, sale or storage of meat, fish, vegetables, fruit and all other food or food products found within the city which are likely to cause or transmit disease, or which may be a hazard to health;

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

(4) *Parking livestock trucks or trailers in residential districts.* Parking or permitting a livestock truck or trailer to remain on any street, area or public ground in a residential district when such truck or trailer gives off an offensive odor or is contaminated with manure or other filth; and

(5) *Outdoor toilets; where sewer available.* Erecting or maintaining an outside toilet on property where water and sewer is available in the street, abutting on such property.
(Prior Code, § 8.08.010) (Ord. 1997-5-1, passed - -1997; Ord. 2008-1-2, passed 3-3-2008)

§ 91.16 PUBLIC NUISANCE DEFINED.

A public nuisance consists in unlawfully doing an act, or omitting to perform a duty within the corporate limits of the city, or in any public grounds or parks belonging to the city or within one mile of the corporate limits of the city which act or omission either:

(A) Annoys, injures or endangers the comfort, repose, health or safety of others;

(B) Offends decency;

(C) Unlawfully interferes with, obstructs or tends to obstruct, or renders dangerous for passage any lake or navigable river, bay, stream, canal or basin or any public park, square, street or highway; or

(D) In any way renders other persons insecure in life, or in the use of property, and which affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon the individuals may be unequal.

(Prior Code, § 8.08.020) (Ord. 1997-5-1, passed - -1997; Ord. 2008-1-2, passed 3-3-2008)

§ 91.17 NOTICE TO ABATE.

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

(Prior Code, § 8.08.030) (Ord. 1997-5-1, passed - -1997; Ord. 2008-1-2, passed 3-3-2008)

§ 91.18 ABATEMENT OF NUISANCE.

If the owner and/or occupant fails to abate said nuisance in accordance with the notice given, the City Council shall cause the abatement thereof and for such purpose may enter upon the property. (Prior Code, § 8.08.040) (Ord. 1997-5-1, passed - -1997; Ord. 2008-1-2, passed 3-3-2008)

§ 91.19 SPECIAL ASSESSMENT OF COSTS OF ABATEMENT.

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

(Prior Code, § 8.08.050) (Ord. 1997-5-1, passed - -1997; Ord. 2008-1-2, passed 3-3-2008)

GRASS AND WEEDS**§ 91.30 DUTY OF OWNER.**

Permitting grass and weeds to grow to a length of ten inches on any private property, including vacant lots, is declared a nuisance and 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 any sidewalk abutting the same any grass weeds or deleterious 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 declared to be a nuisance. These areas lots, and places, maintained in such a condition constitutes a health hazard due to being the ideal breeding places for insects carrying the West Nile Virus.

(Prior Code, § 8.12.010) (Ord. 2008-6-8, passed 7-7-2008) Penalty, see § 91.99

§ 91.31 NOTICE TO DESTROY.

(A) The Health Officer or Code Enforcement Officer is authorized and empowered to notify in writing the owner of any such lot, place or area within the city or the agent of such owner or the occupant of such premises, to cut, destroy or remove any such grass, weeds or deleterious or unhealthful growths or other noxious matter found growing, lying or located on such property or upon the sidewalk abutting the same.

(B) Such notice shall be given by delivering a written notice personally to the owner(s) of the property upon which the nuisance is located, or by depositing such notice in the United States Mail postage prepaid and addressed to owner(s) thereof at his or her last known address as the name appears on the last equalized assessment roll of the county. In the event a notice to remove is also given to the person(s) in possession or control of the property, such notice shall be given in either manner specified in this section and may be addressed to "occupant" or "to whom it may concern", if the name of such person(s) is not known.

(C) The person giving such notice shall file a copy thereof in the office of the Finance Officer, together with an affidavit or certificate stating the time and manner in which such notice was given. The failure of any owner or other person to receive such notice shall not effect in any manner the validity of any proceedings taken under this chapter.

(Prior Code, § 8.12.020) (Ord. 2008-6-8, passed 7-7-2008)

§ 91.32 ACTION UPON NON-COMPLIANCE.

Upon failure, neglect or refusal of any owner, agent or occupant so notified to comply with the notice within five days after the mailing thereof, the Code Enforcement Officer is authorized and empowered to provide for the cutting, destroying or removal of such weeds, grass or the deleterious matter or other noxious growths, and to defray the cost of the mowing, destruction thereof by special assessment against the property as set out in §§ 91.33 and 91.34 of this chapter. If the notification/ mailing of notice to destroy is done two times during the year and there has been no compliance to those mailings, the city will be empowered to enter upon such lot, area or place to abate any future nuisance/health hazard without further written notice.

(Prior Code, § 8.12.030) (Ord. 2008-6-8, passed 7-7-2008)

§ 91.33 COST ASSESSMENT.

The city's Finance Officer shall cause an account to be kept against each lot for the destruction of weeds, grass or the deleterious matter or other noxious growths and shall, thereupon, certify the account showing the amount, the description of the property and the owner thereof to the City Assessor who shall, thereupon, add such assessment to the county or general assessment against the property and shall certify such special assessment together with the regular to the County Auditor to be collected as municipal taxes for general purposes. The assessment shall be subject to review and equalization the same as assessments or taxes for general purposes.

(Prior Code, § 8.12.040) (Ord. 2008-6-8, passed 7-7-2008)

§ 91.34 RECOVERY BY CITY.

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

(Prior Code, § 8.12.050) (Ord. 2008-6-8, passed 7-7-2008)

§ 91.99 PENALTY.

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

(B) Any person violating § 91.03 of this chapter shall be fined \$25 for each such violation.
(Prior Code, § 8.16.010)

(C) In addition to the abatement procedures set forth in §§ 91.15 through 91.19 of this chapter, any person violating the provisions of §§ 91.15 through 91.19 of this chapter shall be guilty of a Class II misdemeanor and subject to a fine not to exceed \$200. Each day that a violation of §§ 91.15 through 91.19 of this chapter exists and is not cured within the notice period shall constitute a separate offense punishable as set forth herein.
(Prior Code, § 8.08.060)

(D) Any person whose duty it is to destroy or remove such weeds grass or the deleterious matter or other noxious growths as set forth in §§ 91.30 through 91.34 of this chapter or who fails to destroy same within the time set forth in § 91.32 of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not exceeding \$100 in addition to other penalties as prescribed in §§ 91.30 through 91.34 of this chapter.
(Prior Code, § 3.12.060)
(Ord. 262, passed 1973; Ord. 1997-5-1, passed - -1997; Ord. 2008-1-2, passed 3-3-2008; Ord. 2008-6-8, passed 7-7-2008)

CHAPTER 92: FIREWORKS

Section

- 92.01 Definition
- 92.02 Regulations and use
- 92.99 Penalty

§ 92.01 DEFINITION.

The term ***FIREWORKS*** means and includes any combustible or explosive composition, or any substance or combination of substances or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation, and includes firecrackers, torpedoes, skyrockets, Roman candles, daygo bombs, sparklers or other fireworks of like construction, any fireworks containing an explosive or flammable compound, or any tablets or other device containing explosive substance. Nothing in this regulation shall be construed as applying to toy paper or plastic caps containing not more than 25/100 of a grain (16.20 milligrams) of explosive composition per cap. (Prior Code, § 8.28.010) (Ord. 1998-10-2, passed - -1998)

§ 92.02 REGULATIONS AND USE.

(A) The manufacture, sale and use of fireworks within the city shall be subject to the provision of the state statutes and regulations and the provisions of this code. Whichever restrictions are the more stringent shall control in the case of any conflict. ***FIREWORKS***, as used in this section, shall include all the items commonly known or sold as ***FIREWORKS***.

(B) It shall be unlawful to sell fireworks at retail within the city, except those fireworks items allowed under state law.

(C) (1) It shall be unlawful to ignite within the city any rocket or rocket-like projectile, commonly referred to as a "bottle rocket", whether or not the rocket has an audible explosive report.

(2) It shall be unlawful for anyone to throw, drop, discharge, ignite or cause to be ignited any fireworks while said person is an occupant of a parked or moving vehicle and in the city.

(3) It shall be unlawful for anyone to intentionally cause any ignited fireworks to be aimed, launched, thrown or dropped on or towards any structure, vehicle or person.

(4) It shall be unlawful to discharge fireworks after 11:00 p.m. or before 7:00 a.m. from June 27 through and including July 2. It shall be unlawful to discharge fireworks after 12:00 a.m. (midnight) or before 7:00 a.m. on July 3 through and including July 5.

(5) It shall be unlawful to discharge fireworks before 7:00 a.m. from December 31 through and including January 1 to 1:00 a.m.

(6) Special permit requests for fireworks within the city limits will be considered on a case by case basis.

(Prior Code, § 8.28.020) (Ord. 216, passed - -1961; Ord. 364, passed - -1994; Ord. 1998-10-2, passed - -1998; Ord. 2012-4-9, passed 5-7-2012) Penalty, see § 92.99

§ 92.99 PENALTY.

Any person violating any provision of this chapter shall be punished by imprisonment in county jail not to exceed 30 days or by a fine not exceeding \$200 or by both such imprisonment and fine.
(Prior Code, § 8.28.030) (Ord. 216, passed - -1961; Ord. 1998-10-2, passed - -1998)

TITLE XI: BUSINESS REGULATIONS

Chapter

- 110. ALCOHOLIC BEVERAGES**
- 111. GARBAGE BUSINESSES**
- 112. PEDDLERS AND TRANSIENT MERCHANTS**
- 113. MEDICAL CANNABIS**

CHAPTER 110: ALCOHOLIC BEVERAGES

Section

General Provisions

- 110.01 License; classification; fees
- 110.02 Public possession of alcohol; permits
- 110.03 Minors; prohibitions
- 110.04 Sunday sales and Memorial Day sales
- 110.05 Full-service on-sale restaurants

Beer and Malt Beverages

- 110.20 License required

GENERAL PROVISIONS

§ 110.01 LICENSE; CLASSIFICATION; FEES.

(A) *Purpose.* The purpose of this section is to implement the provisions of Ch. 211, Laws of 1971, amending SDCL Title 35 and to provide for a classification of distilled spirit establishments in the municipality which shall be permitted to operate therein through the purchase of alcoholic beverages.

(B) *Classification and fees.* The following classification and fees are established for retail dealers in alcoholic beverages:

- (1) On-sale dealer: any person who sells, consumption on the premises where sold: \$1,200 per year fee;
- (2) Off-sale dealer: any person who sells, or keeps for sale, any alcoholic beverage for consumption off the premises where sold: \$400 per year fee; and
- (3) Full-service on-sale restaurant: any person who sells, or consumption on the premises where sold under and having the facilities referred to therein: \$1,200 per year fee.

(C) *Number of licenses.* The number of licenses for on-sale and off-sale that are issues by the city shall not exceed the state's statutes.

(Prior Code, § 5.08.040) (Ord. 253, passed - -1971; Ord. 2019-7-12, passed 9-4-2019)

§ 110.02 PUBLIC POSSESSION OF ALCOHOL; PERMITS.

(A) It is unlawful for any person to have in his or her possession any unsealed can, bottle, glass pitcher, container or package of any kind containing wine, or beer upon any public street, alley, park, playground or any public place or building not having at the time a valid license for the sale and drinking or consuming of such beer or wine on the premises.

(B) Upon application duly made, the Mayor or Chief of Police may issue a temporary permit for a specific time and public place, when and where possession of an unsealed can, bottle, glass, pitcher, container or package may be temporarily permitted as the special occurrence may require; such special permit shall be in writing, signed by the Mayor or Chief of Police.

(Prior Code, § 5.08.050) (Ord. 257, passed - -1973; Ord. 2006-1-1, passed 1-16-2006) Penalty, see § 110.99

§ 110.03 MINORS; PROHIBITIONS.

(A) No person under the age of 21 years of age shall visit or remain in any place within the city where alcoholic beverages are sold or kept for sale to be consumed in the premises without being accompanied by his or her parent or guardian.

(Prior Code, § 5.08.070)

(B) No person shall sell or give any intoxicating liquor to any person under the age of 21 years of age.

(Prior Code, § 5.08.080)

Penalty, see § 110.99

§ 110.04 SUNDAY SALES AND MEMORIAL DAY SALES.

The city authorizes on sale or off sale licensees to sell, serve and consume alcoholic beverages pursuant to SDCL § 35-4-81 on Sundays and Memorial Day. Such sales can be for on- or off-sale pursuant to the license issued to the licensee.

(Prior Code, § 5.08.090) (Ord. 335, passed - -1989; Ord. 2010-10-12, passed 12-6-2010)

§ 110.05 FULL-SERVICE ON-SALE RESTAURANTS.

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

BAR. Any permanently installed counter within the restaurant area from which alcoholic beverages are regularly served to customers by a person who is tending bar or drawing or mixing alcoholic beverages.

FULL-SERVICE RESTAURANT. Any restaurant at which a waiter or waitress delivers food and drink offered from a printed food menu to patrons at tables, booths or the bar. Any restaurant that only serves fry orders or food such as sandwiches, hamburgers or salads is not a **FULL-SERVICE RESTAURANT**.

RESTAURANT. Any area in a building maintained, advertised and held out to the public as a place where individually priced meals are prepared and served primarily for consumption in such area and where not more than 40% of the gross revenue of the restaurant is derived from the sale of alcohol or alcoholic beverages. The **RESTAURANT** shall have a dining room or rooms, a kitchen and the number and kinds of employees necessary for the preparing, cooking and serving of meals.

(B) *License application requirements; documentation.* An applicant for a full-service restaurant on-sale license shall provide sufficient documentation to the municipality with an application form provided by the municipality to prove that the primary source of revenue from the operation of the restaurant will be derived from the sale of prepared food and non-alcoholic beverages and not from the sale of alcoholic beverages. The supporting documentation concerning the primary source of revenue submitted pursuant to this section is confidential.

(C) *Annual reports.* The full-service restaurant on-sale licensee shall submit an annual report and supporting documentation to the city on forms provided by the city of the annual sales of the full-service restaurant, which includes an oath verifying the validity of the information provided in the report. The report and the supporting documentation submitted pursuant to this section are confidential. The report shall contain the annual gross sales of the licensee for the following two categories:

- (1) Food and nonalcoholic beverage sales; and
- (2) Alcoholic beverages sales.

(D) *License renewals.* When renewing a full-service restaurant on-sale license, the city shall condition the license renewal upon receiving documentation that not more than 40% of gross sales from the preceding 12 months operation of the full-service restaurant is derived from the sale of alcohol or alcoholic beverages.

(E) *Only retail on-sale service permitted.* A full-service restaurant on-sale licensee may only serve alcoholic beverages for on-premises consumption in the bar and dining room area of the restaurant.

(F) *Smoking prohibited.* No licensee that has a full-service restaurant on-sale license may allow smoking on the licensed premises.

(G) *Full-service restaurant license fees.*

(1) As required by state law, the license fee charged for a full-service restaurant on-sale license shall be at or above the current fair market value for such license, as determined herein. However, any fair market value so established shall be a minimum of \$1 for each person residing within the city as measured by the last preceding decennial federal census.

(2) The license fee shall be initially established by resolution within 90 days of the initial adoption of this section. Subsequent changes in the license fee shall not be made for a period of ten years from the effective date of adoption of this section unless a population growth reported by the federal decennial census requires an increase in the fee.

(3) Fair market value for full-service restaurant license shall be established as follows.

(a) Within 90 days of the effective date of this section and as required by state statute, each licensee within the city who owns an on-sale license issued pursuant to SDCL § 35-4-2(4) or (6) shall report the amount originally paid for the on-sale license to the city's Finance Department on forms provided by the city. Any form submitted pursuant to this provision shall be signed under oath and shall include the documents establishing the amount originally paid for the on-sale license. If the transaction for the purchase of the on-sale license included real or personal property, the full market value of the real or personal property on the date of the original sale shall be deducted from the total transaction price to determine the amount paid by the licensee for the on-sale license. The burden of establishing the amount paid for the license shall be on the licensee. Any licensee contesting the fair market value of the real or personal property may appeal the valuation adopted by the city to circuit court.

(b) For purposes of this section, pursuant to SDCL § 35-4-117, the term ***CURRENT FAIR MARKET VALUE*** means the documented price of the on-sale license most recently sold through an arm's-length transaction, less the value of any real or personal property included in the transaction. If there are no documented sales of on-sale licenses, the municipality or county may request from any on-sale license holder within the municipality or county, the date and price originally paid for its on-sale license to determine the current fair market value.

(H) *Registry of full-service restaurant on-sale licensees.* The city shall maintain a registry of each full-service on-sale restaurant license that is being offered for sale and the city shall furnish a copy of the registry to anyone who requests a new-full service restaurant on-sale license. The existing full-service restaurant on-sale licensee is responsible for registering with the city that the full-service restaurant on-sale license is for sale.

(I) *Issuance of new full-service restaurant licenses restricted.* The city may only issue a new license pursuant to this section if no on-sale license is on the registry or a person desiring to purchase an on-sale license listed on the registry provides documentation showing that the person is unable to purchase the on-sale license at the price established in division (G) above and on terms satisfactory to both the potential buyer and seller. The price of any on-sale license registered as "for sale" with the city shall

be sold at the current fair market price set by the city pursuant to a resolution adopted in accordance with division (G)(2) above.

(Ord. 2019-7-11, passed 9-4-2019)

BEER AND MALT BEVERAGES

§ 110.20 LICENSE REQUIRED.

(A) The Council shall have the authority to regulate and limit the number of malt beverage licenses to be issued within the corporate limits of the city.

(B) The Council establishes that no more than nine malt beverage licenses shall be issued.
(Prior Code, § 5.12.010) (Ord. 315, passed - -1985; Ord. 329, passed - -1989)

§ 110.99 PENALTY.

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

(B) Any person violating the provisions of § 110.02 of this chapter shall be subject to a fine of \$100 or 30 days imprisonment in the city, or to both such fine and imprisonment.
(Prior Code, § 5.08.050)

(C) A violation of § 110.04 of this chapter is a Class 2 misdemeanor.
(Prior Code, § 5.08.090)
(Ord. 257, passed - -1973; Ord. 335, passed - -1989; Ord. 2006-1-1, passed 1-16-2006; Ord. 2010-10-12, passed 12-6-2010)

CHAPTER 111: GARBAGE BUSINESSES

Section

- 111.01 License required
- 111.02 Fees to be set by City Council

- 111.99 Penalty

§ 111.01 LICENSE REQUIRED.

No person, firm or corporation shall engage in the business for hire of collecting, transporting, and disposing of garbage or waste material including, but not limited to, rocks, lumber, concrete, building materials of any kind, abandoned furniture, household equipment, motor vehicle parts or bodies from within the city limits or dispose of or dump the same in the city dump located in the northwest quarter of section 36, township 118 north, range 76 west of the 5th prime P.M., Potter County, South Dakota, without license from the Council to collect, transport and dispose of such materials from within the city limits. The Council shall have authority to determine and establish standards and conditions for issuance of permits and determine the annual fees for such permit.

(Prior Code, § 5.16.010) (Ord. 243, passed - -1969; Ord. 1999-5-1, passed - -1999) Penalty, see § 111.99

§ 111.02 FEES TO BE SET BY CITY COUNCIL.

The Council may grant licenses or permits to such persons, firms or corporations whom the Council may authorize to collect salvage material from the city dump ground, as described in § 111.01 of this chapter, and to assess, levy and collect annually such fees or charges for such licenses or permits as the Council shall from time to time by resolution establish.

(Prior Code, § 5.16.020) (Ord. 243, passed - -1969; Ord. 1999-5-1, passed - -1999)

§ 111.99 PENALTY.

It is unlawful for any person, firm or corporation not specifically authorized by resolution of the Council to engage in commercial garbage hauling from within the city limits of the city or to transport

and deposit the same in the city dump grounds, as described in § 111.01 of this chapter, or to collect, salvage or remove any metal or wood, or any other substances or material of any kind whatsoever, from the premises described in § 111.01 of this chapter, unless authorized as provided in § 111.01 of this chapter, and that the violation of either §§ 111.01 and 111.02 of this chapter shall be deemed a misdemeanor and punishable by a fine of not to exceed \$100 for each offense.
(Prior Code, § 5.16.030) (Ord. 243, passed - -1969)

CHAPTER 112: PEDDLERS AND TRANSIENT MERCHANTS

Section

Peddlers

- 112.01 Definitions
- 112.02 Permit and license required
- 112.03 Application
- 112.04 Investigation and issuance
- 112.05 Fees
- 112.06 Exhibition of license
- 112.07 Duty of police to enforce
- 112.08 Record of licenses
- 112.09 Revocation of license
- 112.10 Appeal

Transient Merchants

- 112.25 Definitions
- 112.26 License required
- 112.27 Application
- 112.28 Investigation and issuance
- 112.29 Bonds
- 112.30 Service of process
- 112.31 Fees
- 112.32 Revocation of license
- 112.33 Appeals

- 112.99 Penalty

PEDDLERS

§ 112.01 DEFINITIONS.

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

PEDDLER. Includes any person, whether a resident of the city or not, traveling by foot, wagon, automotive vehicle or any other type of conveyance, from place to place, from house to house, or from street to street, carrying, conveying or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden truck, farm products or provisions, offering and exposing the same for sale, or making sales and delivering articles to purchasers or who, without traveling from place to place, shall sell or offer the same for sale from a wagon, automotive vehicle, railroad car or other vehicle or conveyance; and, further provided that, one who solicits orders and as a separate transaction makes deliveries to purchasers as part of a scheme or design to evade the provisions of this chapter shall be deemed a **PEDDLER** subject to the provisions of this subchapter; provided, however, that, this subchapter shall not apply to any person selling food or dairy products of their own production. **PEDDLER** includes "hawker" and "huckster".

PERSON. Includes the singular and the plural and shall also mean and include any person, firm or corporation, association, club, copartnership or society or any other organization.
(Prior Code, § 5.20.010)

§ 112.02 PERMIT AND LICENSE REQUIRED.

It is unlawful for any person to engage in the business of peddler, as defined in § 112.01 of this chapter, within the corporate limits of the city without first obtaining a permit and license therefor as provided in this subchapter.

(Prior Code, § 5.20.020) Penalty, see § 112.99

§ 112.03 APPLICATION.

Applicants for permit and license under this subchapter must file with the city's Finance Officer a sworn application in writing (in duplicate) on a form to be furnished by the city's Finance Officer, which shall give the following information:

(A) Name and description of the applicant;

(B) Address (legal and local);

(C) A brief description of the nature of the business and the goods to be sold;

(D) If employed, the name and address of the employer, together with credentials establishing the exact relationship;

(E) The length of time for which the right to do business is desired;

(F) If a vehicle is to be used, a description of the same, together with license number or other means of identification; and

(G) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor.

(Prior Code, § 5.20.030)

§ 112.04 INVESTIGATION AND ISSUANCE.

(A) Upon receipt of such application, the original shall be referred to the Chief of Police, who shall cause such investigation of the applicant's business and moral character to be made as he or she deems necessary for the protection of the public good.

(B) If, as a result of such investigation, the applicant's character or business responsibility is found to be unsatisfactory, the Chief of Police shall endorse on such application his or her disapproval and his or her reasons for the same, and return the application to the city's Finance Officer, who shall notify the applicant that his or her application is disapproved and no permit and license will be issued.

(C) If, as a result of such investigation, the applicant's character or business responsibility is found to be satisfactory, the Chief of Police shall endorse on such application his or her approval, execute a permit addressed to the applicant for the carrying on of the business applied for and return the permit, along with the application to the city's Finance Officer, who shall, upon payment of the prescribed license fee, deliver to the applicant his or her permit and issue a license. Such license shall contain the signature and seal of the issuing officer and shall show the name and address of the licensee, the class of license issued and the kind of goods to be sold thereunder, the amount of fee paid, the date of issuance and the length of time the same shall be operative, as well as the license number and other identifying description of any vehicle used in such peddling. The city's Finance Officer shall keep a permanent record of all licenses issued.

(Prior Code, § 5.20.040)

§ 112.05 FEES.

The fee for engaging in the business of a peddler, as defined in § 112.01 of this chapter, shall be \$25 per day and any licenses issued to any person under this subchapter shall show the number of days for which the license is valid.

(Prior Code, § 5.20.050)

§ 112.06 EXHIBITION OF LICENSE.

Peddlers are required to exhibit their licenses at the request of any citizen.

(Prior Code, § 5.20.060) Penalty, see § 112.99

§ 112.07 DUTY OF POLICE TO ENFORCE.

It shall be the duty of any police officer of the city to require any person seen peddling, and who is not known by such officer to be duly licensed, to produce his or her peddler's license and to enforce the provisions of this subchapter against any person found to be violating the same.
(Prior Code, § 5.20.070)

§ 112.08 RECORDS OF LICENSES.

The Chief of Police shall report to the city's Finance Officer all convictions for violation of this subchapter and the city's Finance Officer shall maintain a record for each license issued and record the reports of violations therein.
(Prior Code, § 5.20.080)

§ 112.09 REVOCATION OF LICENSE.

(A) Permits and licenses issued under the provisions of this subchapter may be revoked by the City Council after notice and hearing, for any of the following causes:

- (1) Fraud, misrepresentation or false statement contained in the application for license;
- (2) Fraud, misrepresentation or false statement made in the course of carrying on his or her business as peddler;
- (3) Any violation of this subchapter;
- (4) Conviction of any crime or misdemeanor involving moral turpitude; and
- (5) Conducting the business of peddling in an unlawful manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

(B) Notice of the hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee at his or her last known address at least five days proper to the date set for hearing.
(Prior Code, § 5.20.090)

§ 112.10 APPEAL.

(A) Any person aggrieved by the action of the Chief of Police or the city's Finance Officer in the denial of an application for permit or license as provided in § 112.03 of this chapter, or in the decision

with reference to the revocation of a license as provided in § 112.09 of this chapter, shall have the right of appeal to the Council. Such appeal shall be taken by filing with the Council, within 14 days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal.

(B) The Council shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to the appellant in the same manner as provided in § 112.09 of this chapter for notice of hearing on revocation. The decision and order of the Council on such appeal shall be final and conclusive.

(Prior Code, § 5.20.100)

TRANSIENT MERCHANTS

§ 112.25 DEFINITIONS.

(A) For the purpose of this subchapter, a ***TRANSIENT MERCHANT*** or ***ITINERANT MERCHANT*** is defined as any person, firm or corporation whether as owner, agent, consignee or employee who engages in temporary business of selling and delivering goods, wares and merchandise within the city and who in furtherance of such purpose hires, leases, uses or occupies any building, structure, motor vehicle, tent, railroad boxcar or any street, alley, lot or other place within the city for the exhibition and sale of such goods, wares and merchandise either privately or at public auction; provided that, such definitions shall not be construed to include any person, firm or corporation who while occupying such temporary location does not sell from stock, but exhibits samples only for the purpose of securing orders for future delivery only.

(B) The person, firm or corporation so engaged shall not be relieved from complying with the provisions of this chapter merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer or by conducting such transient business in connection with or as part of or in the name of any local dealer, trader, merchant or auctioneer; provided further that, such definition shall not be construed to include any person retailing merchandise or products of his or her own manufacture or production.

(Prior Code, § 5.24.010)

§ 112.26 LICENSE REQUIRED.

It is unlawful for any person, firm or corporation to engage in business in the city as a transient retail merchant or an itinerant merchant, as defined in § 112.25 of this chapter, without first having obtained a license therefor in compliance with the provisions of this subchapter.

(Prior Code, § 5.24.020) Penalty, see § 112.99

§ 112.27 APPLICATION.

Applicants for license under this subchapter whether a person, firm or corporation shall file a written, sworn application signed by the applicant if an individual or by a partner if a partnership or by an officer if a corporation, with the city's Finance Officer showing:

(A) The name or names of the applicant for license;

(B) The name or names of the person or persons having the management or supervision of applicant's business during the time it is proposed that it will be carried on in the city and the permanent address and addresses of such person or persons, the capacity in which such person or persons will act; that is, whether proprietor, agent or otherwise;

(C) The place or places in the city where it is proposed to carry on applicant's business and the length of time it is proposed that the business shall be conducted;

(D) A statement of the nature and character and quality of the goods, wares, and merchandise to be sold or offered for sale by applicant whether the same are proposed to be sold from stock in possession or by sample, at auction by direct sale or by taking orders for future delivery, where the goods or property proposed to be sold are manufactured or produced and where such goods or products are located at the time the application is filed; and

(E) At least three references as to the integrity of the applicant.
(Prior Code, § 5.24.030)

§ 112.28 INVESTIGATION AND ISSUANCE.

(A) Upon receipt of such application, the city's Finance Officer shall refer such application to the Chief of Police of the city, who shall cause such investigation of such person's or persons' business responsibility or moral character to be made as he or she deems necessary to the protection of the public good.

(B) The Chief of Police shall, as soon as such investigation can be made, return such application to the city's Finance Officer with his or her recommendations as to whether or not such application should be granted and, in the event of his or her recommendation that such application be refused, his or her reasons therefor.

(C) Upon the receipt of such application with the endorsement of the Chief of Police as set forth above, the Finance Officer shall present such application to the City Council at its next meeting, at which time, the Council shall act upon such application and in its discretion, either approve or disapprove the same.

(Prior Code, § 5.24.040)

§ 112.29 BONDS.

Before any license as provided in this subchapter shall be issued for engaging in any transient or itinerant business, as defined by § 112.25 of this chapter, in the city, such applicant shall file with the city's Finance Officer a bond running to the city in the sum of \$1,000 executed by the applicant as principal and two sureties upon which service of process will be made in the state, the bond to be approved by the Council and conditioned that the applicant shall comply fully with all ordinances of the city and the statutes of the state regulating and concerning the sale of goods, wares and merchandise and will pay all judgments rendered against the applicant for any violation of the ordinances or statutes or any of them together with all judgments and costs that may be recovered against him or her by any person or persons for damage growing out of any misrepresentation or deception practiced on any person transacting such business with such applicant, his or her agent, servants or employees.
(Prior Code, § 5.24.050)

§ 112.30 SERVICE OF PROCESS.

(A) Before any license as herein provided shall be issued for engaging in business as a transient or itinerant merchant, such applicant shall also file with the city's Finance Officer an instrument nominating and appointing the city's Finance Officer as true and lawful agent with full power and authority to acknowledge service of notice of process for and on behalf of the applicant in respect to any matters connected with or arising out of the business transaction under the license, and the bond as heretofore required. Immediately upon service of process upon the city's Finance Officer as herein provided, the city's Finance Officer shall send to the licensee to his or her last known address by registered mail a copy of the process.

(B) The instrument shall also contain recitals to the effect that the applicant for the license consents and agrees that service of any notice or process may be made upon the agent, and when so made shall be taken and held to be as valid as if personally served upon the person or persons applying for the license under this subchapter, according to the law of this or any other state, and waiving all claim or right of error by reason of such acknowledgment of service or manner of service.
(Prior Code, § 5.24.060)

§ 112.31 FEES.

(A) The fee required to be paid by such transient merchant or itinerant merchant, as defined in § 112.25 of this chapter, for the procuring of such license shall be at no fee charged per day, but the required paperwork shall be filled out and given to the Finance Officer in a timely manner.

(B) The application and license issued shall state the time for which the license is granted and the expiration date.
(Prior Code, § 5.24.070) (Ord. 2011-2-2, passed 3-7-2011)

§ 112.32 REVOCATION OF LICENSE.

(A) The permits and licenses issued pursuant to this subchapter may be revoked by the City Council after notice of hearing for any of the following causes:

- (1) Any fraud, misrepresentation or false statement contained in the application for license;
- (2) Any fraud, misrepresentation or false statement made in connection with the selling of goods, wares or merchandise;
- (3) Any violation of this subchapter;
- (4) Conviction of the licensee of any felony or of a misdemeanor involving moral turpitude;

or

(5) Conducting the business licensed under this subchapter in an unlawful manner or in such a manner as to constitute a menace to the health, safety or general welfare of the public.

(B) Notice of hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. Such notice shall be mailed, postage prepaid, to the licensee, at his or her last known address, at least five days prior to the date set for the hearing.

(Prior Code, § 5.24.080)

§ 112.33 APPEALS.

Any person aggrieved by the decision of the City Council in regard to the denial of application for license, as provided in § 112.27 of this chapter, shall have the right to appeal to the Council. Such appeal shall be taken by filing with the Council within ten days after notice of the decision of the Council, a written statement showing the ground for the appeal, the Council shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to such person in the same manner as provided in § 112.32 of this chapter for notice of hearing on revocation. The order of the Council on such appeal shall be final.

(Prior Code, § 5.24.090)

§ 112.99 PENALTY.

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

(B) Any person violating any of the provisions of §§ 112.01 through 112.10 of this chapter shall, upon conviction thereof, be punished by a fine not to exceed \$100 or by imprisonment not to exceed 30 days or both such fine and imprisonment.

(Prior Code, § 5.20.110)

(C) Any person violating provisions of §§ 112.25 through 112.33 of this chapter relating to transient and itinerant merchants shall, upon conviction thereby, be punished by a fine of not exceeding \$100 or by imprisonment in the city jail for a period of not to exceed 30 days or by both such fine and imprisonment, and that every day such violation exists shall constitute a separate offense and be punishable as such hereunder.

(Prior Code, § 5.24.100)

CHAPTER 113: MEDICAL CANNABIS

Section

- 113.01 Purpose and intent
- 113.02 Definitions
- 113.03 License required
- 113.04 License application
- 113.05 Issuance of license
- 113.06 City neutrality as to applicants
- 113.07 Number of cannabis dispensaries
- 113.08 Expiration of license and renewal
- 113.09 Suspension
- 113.10 Revocation
- 113.11 Suspension and revocation process
- 113.12 Appeal
- 113.13 Licenses not transferrable
- 113.14 Hours of operation for dispensaries
- 113.15 Liability for violations
- 113.16 Penalties

§ 113.01 PURPOSE AND INTENT.

The City Council of the City of Gettysburg enacts the following licensing regulations in order to ensure that cannabis establishments within the municipal boundaries of the city operate in a manner which complies with state laws and regulations, protects the health, safety, and welfare of the general public, prevents potential conflicts and issues arising from ownership and employees, recognizes certain safety and security considerations, and minimizes risk of unauthorized use or access of cannabis by the general public.

(Ord. 22-01, passed 7-11-2022)

§ 113.02 DEFINITIONS.

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

CANNABIS (OR MARIJUANA). All parts of any plant of the genus cannabis, whether growing or not, in its natural and unaltered state, except for drying or curing and crushing or crumbling. The term includes an altered state of marijuana absorbed into the human body. The term does not include fiber produced from the mature stalks of such plant, or oil or cake made from the seeds of such plant. The

term does not include the plant *Cannabis sativa* L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of 1% on a dry weight basis.

CANNABIS CULTIVATION FACILITY. In addition to the definition in SDCL § 34-20G-1, this term is further defined as a legally licensed entity that acquires, possesses, cultivates, delivers, transfers, transports, supplies, or sells cannabis and related supplies to a cannabis establishment.

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

CANNABIS ESTABLISHMENT. Cannabis cultivation facility, a cannabis testing facility, a cannabis product manufacturing facility, or a cannabis dispensary.

CANNABIS PRODUCT MANUFACTURING FACILITY. In addition to the definition in SDCL § 34-20G-1, this term is further defined as a legally licensed entity that acquires, possesses, manufactures, delivers, transfers, transports, supplies, or sells cannabis products to a cannabis dispensary.

CANNABIS PRODUCTS. Any concentrated cannabis, cannabis extracts, and products that are infused with cannabis or an extract thereof, and are intended for use or consumption by humans. The term includes edible cannabis products, beverages, topical products, ointments, oils, and tinctures.

CANNABIS TESTING FACILITY. In addition to the definition in SDCL § 34-20G-1, this term is further defined as a legally licensed entity legally authorized to analyze the safety and potency of cannabis.

DEPARTMENT. The South Dakota Department of Health.
(Ord. 22-01, passed 7-11-2022)

§ 113.03 LICENSE REQUIRED.

(A) No cannabis establishment may be located or operate in the city without the appropriate valid and current cannabis establishment license issued by the city pursuant to this chapter. A violation of this provision is subject to the general penalty provision in § 113.16. Each day of the violation constitutes a separate offense.

(B) No cannabis establishment may be located or operate in the city without the appropriate valid and current cannabis establishment registration certificate issued by the department pursuant to rules promulgated under SDCL § 34-20G. A violation of this provision is subject to the general penalty provision in § 113.16. Each day of the violation constitutes a separate offense.
(Ord. 22-01, passed 7-11-2022)

§ 113.04 LICENSE APPLICATION.

(A) An application for a cannabis establishment license must be made on a form provided by the city. No other application form will be considered.

(B) The applicant must submit the following:

(1) Application fee of \$5,000. The city will reimburse \$2,500 for applicants who fail to obtain a registration certificate from the South Dakota Department of Health.

(2) An application that will include, but is not limited to, the following:

(a) The legal name of the prospective cannabis establishment.

(b) The physical address of the prospective cannabis establishment that meets any location requirements pursuant SDCL § 34-20G and the administrative rules promulgated thereunder.

(c) The name, address, and birth date of each principal officer, owner, and board member of the proposed cannabis establishment.

(d) A sworn statement that no principal officer, owner, or board member has been convicted of a violent felony offense in the previous ten years in any jurisdiction.

(e) Any additional information requested by the city.
(Ord. 22-01, passed 7-11-2022)

§ 113.05 ISSUANCE OF LICENSE.

(A) The city will issue a license unless:

(1) The applicant has made a false statement on the application or submits false records or documentation; or

(2) Any owners, principal officer, or board member of the applicant is under the age of 21 years; or

(3) Any owner, principal officer, or board member of the applicant has been convicted of a violent felony offense in the previous ten years in any jurisdiction; or

(4) The proposed location does not meet all location requirements under SDCL § 34-20G and the administrative rules promulgated thereunder; or

(5) The license is to be used for a business prohibited by state or local law, statute, rule, ordinance, or regulation; or

(6) Any owner, principal officer, or board member of the applicant has had a cannabis establishment license revoked by the city or a registration certificate revoked by the state; or

(7) An applicant, or an owner, principal officer, or board member thereof, is overdue in payment to the city of taxes, fees, fines, or penalties assessed against or imposed upon the applicant in relation to any cannabis establishment; or

(8) The applicant will not be operating the business for which the license would be issued.

(B) In the case of an application for a cannabis dispensary license, the city will reject the application if the limit on the number of cannabis dispensaries has been reached.

(C) The license must be posted in a conspicuous place at or near the entrance to the cannabis establishment so that it may be easily read at any time.
(Ord. 22-01, passed 7-11-2022)

§ 113.06 CITY NEUTRALITY AS TO APPLICANTS.

Upon request from the department as to the city's preference of applicants, the city will neither support nor oppose any registration certificate application under consideration by the department. Likewise, if inquiry is made by the department, the city will abstain from endorsing any application as beneficial to the community.
(Ord. 22-01, passed 7-11-2022)

113.07 NUMBER OF CANNABIS DISPENSARIES.

No more than one cannabis dispensary shall be allowed to operate in the city at any time.
(Ord. 22-01, passed 7-11-2022)

§ 113.08 EXPIRATION OF LICENSE AND RENEWAL.

(A) Each license expires one year from the date of issuance and may be renewed only by making application as provided in § 113.04. Application for renewal must be submitted at least 30 days before the expiration date. The license holder must continue to meet the license requirements to be eligible for a renewal.

(B) The renewal fee is \$5,000. The city will reimburse \$2,500 for applicants who fail to obtain a renewal of their registration certificate from the department.

(C) Failure to renew a license in accordance with this section may result in additional fees. Upon expiration of the license, the city may order closure of the cannabis establishment.

(D) If a license holder has not operated an establishment for which it holds a license in the preceding 12 months, the license will not be renewed.
(Ord. 22-01, passed 7-11-2022)

§ 113.09 SUSPENSION.

(A) A license may be suspended if the license holder or an employee or agent of the license holder:

(1) Violates or is otherwise not in compliance with any section of this chapter.

(2) Consumes or smokes or allows any person to consume or smoke cannabis on the premises of the cannabis establishment.

(3) Knowingly dispenses or provides cannabis or cannabis products to an individual or business to whom it is unlawful to provide cannabis or cannabis products.

(B) A license may be suspended if the license holder has its department-issued registration certificate suspended, revoked, or not renewed by the department or if the registration certificate is expired.

(C) A license may be suspended if the license holder creates or allows to be created a public nuisance at the cannabis establishment.
(Ord. 22-01, passed 7-11-2022)

§ 113.10 REVOCATION.

(A) A license may be revoked if the license is suspended under § 113.11 and the cause for the suspension is not remedied.

(B) A license may be revoked if the license is subject to suspension under § 113.11 because of a violation outlined in that section and the license has been previously suspended in the preceding 24 months.

(C) A license is subject to revocation if a license holder or employee of a license holder:

(1) Gave false or misleading information in the material submitted during the application process;

(2) Knowingly allowed possession, use, or sale of non-cannabis controlled substances on the premises;

(3) Operated the cannabis establishment or the business of the cannabis establishment for which a license is required under this chapter while the license was suspended;

(4) Repeated violations of § 113.10 and/or § 113.11;

(5) Operated a function of a cannabis establishment for which the license holder was not licensed (e.g., a licensed cannabis cultivation facility conducting cannabis testing functions without a cannabis testing establishment license);

(6) A license holder, or an owner, principal officer, or board member thereof, is delinquent in payment to the city, county, or state for any taxes or fees related to the cannabis establishment;

(7) A license holder, or an owner, principal officers, or board member thereof, has been convicted of, or continues to employ an employee who has been convicted of, a disqualifying felony offense as defined by SDCL § 34-20G;

(8) The license holder has its department-issued registration certificate suspended, revoked, or not renewed or the registration certificate is expired; or

(9) The license holder allows a public nuisance to continue after notice from the city.
(Ord. 22-01, passed 7-11-2022)

§ 113.11 SUSPENSION AND REVOCATION PROCESS.

(A) The license holder will receive a notice of intent to suspend or notice of intent to revoke informing the license holder of the violation and the city's intention to suspend or revoke the license. The notice will be hand delivered to the license holder or an employee or agent of the license holder or sent by certified mail, return receipt requested to the physical address of the cannabis establishment.

(B) If the license holder disputes the suspension or revocation, the license holder has ten days from the postmark date on the notice or the date the notice was hand delivered to request a hearing before a hearing panel, which will consist of the Mayor, Finance Officer, and members of City Council.

(C) A suspension will be for 30 days and begins ten days after the postmark date on the notice or the date the notice is hand delivered unless the license holder exercises its rights to process and appeal, in which case the suspension takes effect upon the final determination of suspension.

(D) A revocation will be for one year and begins ten days after the postmark date on the notice or the date the notice is hand delivered unless the license holder appeals the revocation, in which case the revocation takes effect upon the final determination of revocation.

(E) The license holder who has had the license revoked may not be issued any cannabis establishment license for one year from the date the revocation became effective.
(Ord. 22-01, passed 7-11-2022)

§ 113.12 APPEAL.

An applicant or license holder who has been denied a license or renewal of a license or who has had a license suspended or revoked under this chapter may appeal to the City Council by submitting a written appeal within ten days of the postmark on the notice of denial, nonrenewal, suspension, or revocation. The written appeal must be submitted to the City Finance Office: 109 East Commercial Avenue, South Dakota, 57442. The appeal will be considered by the City Council at a regularly scheduled meeting within one month of the receipt of the appeal.
(Ord. 22-01, passed 7-11-2022)

§ 113.13 LICENSES NOT TRANSFERRABLE.

No cannabis establishment license holder may transfer the license to any other person or entity either with or without consideration, nor may a license holder operate a cannabis establishment at any place other than the address designated in the application.
(Ord. 22-01, passed 7-11-2022)

§ 113.14 HOURS OF OPERATION FOR DISPENSARIES.

A cannabis dispensary may only operate between the hours of 8:00 a.m. and 5:00 p.m. Monday through Saturday.
(Ord. 22-01, passed 7-11-2022)

§ 113.15 LIABILITY FOR VIOLATIONS.

Notwithstanding anything to the contrary, for the purposes of this chapter, an act by an employee or agent of a cannabis establishment that constitutes grounds for suspension or revocation will be imputed to the cannabis establishment license holder for purposes of finding a violation of this chapter,

or for purposes of license denial, suspension, or revocation, only if an officer, director or general partner or a person who managed, supervised or controlled the operation of the cannabis establishment, knowingly allowed such act to occur on the premises.

(Ord. 22-01, passed 7-11-2022)

§ 113.16 PENALTIES.

Any person who operates or causes to be operated a cannabis establishment without a valid license or in violation of this chapter is subject to a suit for injunction as well as prosecution for ordinance violations. Such violations are punishable by a maximum fine of \$500. Each day a cannabis establishment so operates is a separate offense or violation.

(Ord. 22-01, passed 7-11-2022)

TITLE XIII: GENERAL OFFENSES

Chapter

- 130. OFFENSES AGAINST PUBLIC ADMINISTRATION**
- 131. OFFENSES AGAINST PROPERTY**
- 132. OFFENSES AGAINST PUBLIC PEACE AND SAFETY**
- 133. OFFENSES BY OR AGAINST MINORS**

CHAPTER 130: OFFENSES AGAINST PUBLIC ADMINISTRATION

Section

- 130.01 Resisting, escaping from or assaulting an officer
- 130.02 Impersonating an officer
- 130.03 False emergency alarms prohibited
- 130.04 Interference with City Engineer, instruments and stakes
- 130.05 Hindering firefighters; injuring fire apparatus
- 130.06 Driving over hose
- 130.07 Displaying license unlawfully

§ 130.01 RESISTING, ESCAPING FROM OR ASSAULTING AN OFFICER.

(A) No person shall resist or obstruct any police officer in the performance of any official duty, nor in any way aid or assist any person to resist or escape from any such officer, nor assist any person to escape from any lawful confinement.

(B) No person shall assault or strike any police officer, nor in any way interfere with a police officer in the discharge of his or her duty.

(Prior Code, § 9.04.010) Penalty, see § 10.99

§ 130.02 IMPERSONATING AN OFFICER.

No person not duly authorized shall exercise the duties conferred by law upon any police officer, wear a police officer's badge or represent himself or herself as being a police officer or peace officer, or attempt to exercise the duties of a police officer or peace officer.

(Prior Code, § 9.04.020) Penalty, see § 10.99

§ 130.03 FALSE EMERGENCY ALARMS PROHIBITED.

No person shall knowingly make or give any false alarm of fire or other emergency, by calling or causing to be called the Fire Department, the police officers or any authorized emergency vehicle.

(Prior Code, § 9.04.030) Penalty, see § 10.99

§ 130.04 INTERFERENCE WITH CITY ENGINEER, INSTRUMENTS AND STAKES.

No person shall interfere with the City Engineer while engaged in his or her official duties in any manner or by driving any vehicle of any kind against the person, surveying instruments or apparatus of the City Engineer or any of his or her assistants, or by moving or displaying any stake, monument or benchmark fixed or located by him or her or his or her assistants.

(Prior Code, § 9.04.040) Penalty, see § 10.99

§ 130.05 HINDERING FIREFIGHTERS; INJURING FIRE APPARATUS.

Any person who willfully hinders or delays any officer or firefighter in the performance of his or her duties at a fire or willfully injures, defaces or interferes with any of the fire apparatus belonging to the city shall, upon conviction, be punished by fine and imprisonment as provided in § 10.99 of this code of ordinances.

(Prior Code, § 9.04.050) Penalty, see § 10.99

§ 130.06 DRIVING OVER HOSE.

Any person who drives or pulls a wagon or other vehicle over any unprotected hose of the Fire Department of the city when laid on a street or alley to be used at any fire, or alarm of fire, or while at practice without the consent of the Chief or such other person as may be in command, shall, upon conviction, be punished by fine and imprisonment as provided in § 10.99 of this code of ordinances.

(Prior Code, § 9.04.060) Penalty, see § 10.99

§ 130.07 DISPLAYING LICENSE UNLAWFULLY.

No person shall carry or display any city license or permit which has been terminated or revoked or which has not been lawfully procured and issued.

(Prior Code, § 9.04.070) Penalty, see § 10.99

CHAPTER 131: OFFENSES AGAINST PROPERTY

Section

- 131.01 Injuring city signs
- 131.02 Traffic signs; defacement or unauthorized placement
- 131.03 Destroying trees and plants
- 131.04 Interference with electric light posts and apparatus
- 131.05 Unauthorized connection with gas, water or electrical pipe or wire
- 131.06 Interference with city property
- 131.07 Destroying property
- 131.08 Fences
- 131.09 Larceny; grand larceny

§ 131.01 INJURING CITY SIGNS.

No person shall deface, remove, change, mar or in any way interfere with or obliterate either wholly or in part any sign, signboard or card placed, posted, extended or erected by the city.
(Prior Code, § 9.08.010) Penalty, see § 10.99

§ 131.02 TRAFFIC SIGNS; DEFACEMENT OR UNAUTHORIZED PLACEMENT.

(A) No person shall deface, injure, move, obstruct or interfere with any official traffic sign or signal, street sign or parking meter.

(B) No person shall place, maintain or display upon or in view of any street any unofficial sign, signal or device which purports to be or is an imitation of or resembles an official traffic sign or signal, or which attempts to direct the movement of traffic. Every such prohibited sign, signal or device is declared to be a public nuisance, and the Chief of Police is empowered to remove the same or cause the same to be removed without notice.

(Prior Code, § 9.08.020) Penalty, see § 10.99

§ 131.03 DESTROYING TREES AND PLANTS.

(A) No person shall willfully injure, destroy or deface any tree, shrub, plant or grass in any parking lot or park.

(B) No person shall willfully injure or destroy any cultivated fruits or vegetables, ornamental trees, shrubs, hedges, vines or flowers, nor injure or carry off any of the products thereof which are the property of another.

(Prior Code, § 9.08.030) Penalty, see § 10.99

§ 131.04 INTERFERENCE WITH ELECTRIC LIGHT POSTS AND APPARATUS.

No person shall interfere with, injure, break or jar any electric light, telephone, telegraph or fire alarm system, post or pole or apparatus in any manner, or climb any telegraph, telephone, electric light or fire alarm pole without being properly authorized to do so.

(Prior Code, § 9.08.040) Penalty, see § 10.99

§ 131.05 UNAUTHORIZED CONNECTION WITH GAS, WATER OR ELECTRICAL PIPE OR WIRE.

No person shall, without lawful authority, connect or cause to be connected with any main service pipe, wire or other conductor of any gas, water or electrical energy, any pipe, wire or other device for the purpose of obtaining gas, water or electrical current therefrom, nor shall with intent to defraud, connect or cause to be connected with any meter installed for the purpose of registering the amount of gas, water or electricity supplied to any customer, any pipe, wire or other device or disconnect, change or in any manner so interfere with any such meter or any pipe, wire or appliance connected therewith, that such meter will not measure or register the full amount of gas, water or electricity supplied to any customer.

(Prior Code, § 9.08.050) Penalty, see § 10.99

§ 131.06 INTERFERENCE WITH CITY PROPERTY.

(A) No person shall climb or in any manner interfere with any building, water tower, bridge or structure belonging to the city, without being authorized so to do by the city.

(B) No person shall in any manner injure or deface any such structure.

(Prior Code, § 9.08.060) Penalty, see § 10.99

§ 131.07 DESTROYING PROPERTY.

No person shall willfully damage, deface, break, destroy or interfere with the property of the city or of another person.

(Prior Code, § 9.08.070) Penalty, see § 10.99

§ 131.08 FENCES.

No person, firm or corporation shall hereafter construct, erect or maintain or cause to be constructed, erected or maintained in the city, any fences of any character or material, exceeding seven feet in height, above the sidewalk or the surface of any lot or parcel of land; provided that, any such fence so constructed, erected or maintained shall not exceed five feet in height when the same is within 40 feet of the street line; and, provided further that, no fence or any part thereof shall be constructed of barbed wire; provided that, this restriction shall not apply to the fencing or enclosing of any field or ground used for athletic purposes.

(Prior Code, § 9.08.080) Penalty, see § 10.99

§ 131.09 LARCENY; GRAND LARCENY.

(A) "*Larceny*" defined. The crime of **LARCENY** is the taking of the personal property accomplished by fraud or stealth and with intent to deprive another thereof.

(Prior Code, § 9.08.090)

(B) "*Grand larceny*" defined.

(1) **GRAND LARCENY** is larceny committed in any of the following cases:

(a) When the value of the property taken is of a value exceeding \$50; or

(b) When such property, although not of a value exceeding \$50, is taken from the person of another; and

(c) Larceny in all other cases is "petit larceny".

(Prior Code, § 9.08.100)

(2) Any person who commits the crime of larceny as classified in division (B)(1)(c) above within the city limits shall be guilty of a misdemeanor and shall be punished as provided in § 10.99 of this code of ordinances.

(Prior Code, § 9.08.110)

(Ord. 229, passed - -1965) Penalty, see § 10.99

CHAPTER 132: OFFENSES AGAINST PUBLIC PEACE AND SAFETY

Section

General Provisions

- 132.01 Disturbing the peace
- 132.02 Gatherings on streets
- 132.03 Crowds obstructing streets
- 132.04 Goods on sidewalks
- 132.05 Consumer protection

Weapons

- 132.20 Discharge of firearms or air rifles

GENERAL PROVISIONS

§ 132.01 DISTURBING THE PEACE.

No person shall disturb the peace of the city or of any person by violent, tumultuous or offensive conduct, or by loud or unusual noise or by profane, obscene, indecent, violent or threatening language, or by assaulting, striking or attempting to assault or strike another person, or inviting or defying another person to fight or quarrel, or by willfully and maliciously destroying or attempting to destroy or injure any property belonging to another, or by engaging in a fight with another.

(Prior Code, § 9.12.010) Penalty, see § 10.99

§ 132.02 GATHERINGS ON STREETS.

No person shall call or cause the gathering of any crowd of people or address or exhibit any show or performance to such crowd in any alley, street or other public ground of the city, without the written permission of the Mayor.

(Prior Code, § 9.12.020) Penalty, see § 10.99

§ 132.03 CROWDS OBSTRUCTING STREETS.

It is unlawful for persons to gather in crowds or groups or for any person to stand on any public street or sidewalk in such manner as to obstruct free passage thereon, or to annoy other persons passing along the same, and any police officer is authorized to disperse any crowd or group or to cause the removal of any person violating the provisions of this section and to summarily arrest any person in case of refusal to obey any reasonable direction given by such officer for the purpose of clearing the way or preventing annoyance to any passerby on any public street or sidewalk.

(Prior Code, § 9.12.030) Penalty, see § 10.99

§ 132.04 GOODS ON SIDEWALKS.

No person shall place any goods or merchandise for sale or exhibition upon any sidewalk; except that, for the purpose of loading or unloading, such articles may be placed upon the outer side of the sidewalk for such time as may be necessary to load or unload the same, but in no instance shall any such articles be left upon the sidewalk in the nighttime or in such a way as to obstruct the sidewalk.

(Prior Code, § 9.12.040) Penalty, see § 10.99

§ 132.05 CONSUMER PROTECTION.

(A) No person shall put up, erect, hang, post or suffer to remain so placed, any sign, poster, notice or other advertising matter, upon any telephone, telegraph or electric light pole in the city.

(B) No person shall paint, print, write, post or in any manner place upon any sidewalk, pavement or crosswalk in the city any letters, words, figures, signs, pictures, notices or advertisement of any kind.

(Prior Code, § 9.32.010) Penalty, see § 10.99

WEAPONS**§ 132.20 DISCHARGE OF FIREARMS OR AIR RIFLES.**

It is unlawful for any person, except a public officer or specially appointed officer in the discharge of his or her duty, to discharge or fire any gun, air rifle, sling shot or other dangerous weapon within the limits of the city.

(Prior Code, § 9.24.020) Penalty, see § 10.99

CHAPTER 133: OFFENSES BY OR AGAINST MINORS

Section

133.01 Loitering; times and places; responsibility

133.99 Penalty

§ 133.01 LOITERING; TIMES AND PLACES; RESPONSIBILITY.

(A) *Prohibited times and places.* It is unlawful for any minor person under the age of 16 to loiter, idle, wander, stroll or play, ride or be in any motor vehicle in or upon the public streets, highways, roads, alleys, parks, public buildings, places of amusement and entertainment, vacant lots or other unsupervised places, or to be or remain in any dance hall, restaurant, café, theater or other public place between the hours of 10:30 p.m. and 5:00 a.m. of the following day, official city time; provided, however, that, the provisions of this division (A) do not apply to a minor accompanied by his or her parents, guardian or other adult person having the care and custody of the minor, or where the minor is upon an emergency errand or legitimate business, directed by his or her parent or guardian or other adult person having the care or custody of the minor; and, provided further that, this division (A) does not in any way apply to any minor after he or she shall have reached his or her seventeenth birthday unless exempted under division (D) of this section.

(Prior Code, § 9.20.010)

(B) *Responsibility of parents.* It is unlawful for the parent, guardian or other adult person having the care and custody of a minor under the age of 16 to knowingly permit such minor to loiter, idle, wander, stroll or play or ride or be in any motor vehicle upon the public streets, highways, roads, alleys, playgrounds or other public grounds, public places or public buildings, places of amusement, vacant lots or other unsupervised places, or to be or remain in any dance hall, restaurant, café, theater or other public place between the hours of 10:30 p.m. and 5:00 a.m. of the following day, official city time; provided, however, that, the provisions of this division (B) do not apply when the minor is accompanied by his or her parent, guardian or other adult person having the care and custody of the minor, or when the minor is upon an emergency errand or legitimate business directed by his or her parent, guardian or other adult person having the care and custody of the minor unless exempted under division (D) of this section.

(Prior Code, § 9.20.020)

(C) *Responsibility of others.* It is unlawful for any person, firm or corporation operating places of amusement and entertainment, restaurants, cafés, theaters or other public places to permit minors to enter

or remain in such place of amusement and entertainment, restaurant, café, theater or other public place during the hours prohibited under this chapter, or owner or operator of any motor vehicle to permit or allow any minor to be in or ride in such motor vehicle during the hours prohibited by this section; provided, however, that, the provisions of this division (C) do not apply when the minor is accompanied by his or her parent, guardian or other adult person having the care and custody of the minor unless exempted under division (D) of this section.

(Prior Code, § 9.20.030)

(D) It is an exemption to a violation under this section that the person engaged in the prohibited conduct while:

- (1) Accompanied by the minor's parent or guardian;
- (2) On an errand at the direction of the minor's parent or guardian, without any detour or stop;
- (3) In a motor vehicle involved in interstate travel;
- (4) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
- (5) Involved in an emergency;
- (6) On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the Police Department about the minor's presence;
- (7) Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor;
- (8) Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or
- (9) Married or had been married or had disabilities of minority removed in accordance with state law.

Penalty, see § 133.99

§ 133.99 PENALTY.

Any minor violating the provisions of § 133.01 of this chapter shall be taken into custody by the Chief of Police and for the first offense shall be immediately delivered into the custody of the parent, guardian or other legal custodian of such minor. Upon a subsequent violation, the minor shall be taken

by the officer before the city's Justice of the Peace and charged with the violation of § 133.01 of this chapter; or may be brought before the County Court and dealt with in accordance with the Juvenile Court Law and procedure. Any parent, guardian or person having the care and custody of a minor or any other person violating the provisions of § 133.01(B) and (C) of this chapter shall be fined in a sum not exceeding \$100 or confined in jail not more than 30 days or punished by both such fine and imprisonment for each offense.

(Prior Code, § 9.20.040)

TITLE XV: LAND USAGE

Chapter

- 150. BUILDING REGULATIONS; CONSTRUCTION**
- 151. STREETS, SIDEWALKS AND PUBLIC PROPERTY**
- 152. TREES**
- 153. TRAILER AND TRAILER COURTS**
- 154. FLOOD DAMAGE PREVENTION**

CHAPTER 150: BUILDING REGULATIONS; CONSTRUCTION

Section

Codes Adopted

- 150.01 Building Code
- 150.02 Fire Code
- 150.03 Unvented Appliance Code
- 150.04 International Property Maintenance Code

Building Permits; Fees

- 150.20 Construction, improvements; barring maintenance or repair
- 150.21 Moving existing residential structures
- 150.22 Demolition of a structure
- 150.23 Mobile homes
- 150.24 City assessment policy
- 150.25 Agricultural land within city limits

Moving Buildings

- 150.40 Permission to move building
- 150.41 Applications
- 150.42 Guarantee fund
- 150.43 Permit actions
- 150.44 Refunding guarantee fund

- 150.99 Penalty

CODES ADOPTED

§ 150.01 BUILDING CODE.

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

CORPORATION COUNSEL. When used in the Building Code, it shall be held to mean the attorney for the city.

MUNICIPALITY. When used in the building code, it shall be held to mean the city.
(Prior Code, § 15.04.010)

(B) *Adoption of Building Code.* There 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, that certain building code known as the National Building Code, Abbreviated Edition, recommended by the National Board of Fire Underwriters, being particularly the most current edition thereof and the whole thereof, save and except such portions as are hereinafter deleted, modified or amended, of which at least one current copy has been and now is filed in the office of the city's Finance Officer and the same is adopted and incorporated as fully as if set out at length herein, and the provisions thereof shall be controlling in the construction of all buildings and other structures within the corporate limits of the city.
(Prior Code, § 15.04.020)

(C) *Maintenance Supervisor; established.*

(1) The office of the Maintenance Supervisor is created and the executive official in charge shall be known as the "Maintenance Supervisor".

(2) The Maintenance Supervisor shall be appointed by the City Council. The Maintenance Supervisor may be the Superintendent of Waterworks, Superintendent of Streets or such other official or employee of the city, who shall assume the duties of Maintenance Supervisor in addition to his or her other duties. This appointment shall continue during good behavior and satisfactory service. The Maintenance Supervisor shall not be removed from office, except for cause after full opportunity has been given the Maintenance Supervisor to be heard on specific charges.

(3) During temporary absence or disability of the Maintenance Supervisor, the City Council shall designate an acting Maintenance Supervisor.
(Prior Code, § 15.04.030)

(D) *Building Committee.*

(1) A Building Committee shall be established.

(2) The Building Committee shall consist of two members of the City Council who shall be appointed by the Mayor and approved by the City Council at the regular meeting in May of each year.

(E) *Duties of the Building Permit Committee.*

(1) All building permits that have been approved by the Building Official shall then be submitted to the Building Permit Committee for approval.

(2) All building permits must be approved by the Building Permit Committee of City Council.

(F) *Building Official; duties.* It shall be the duty of the Building Official to enforce all laws relating to the construction, alteration, removal and demolition of all buildings and structures.
(Prior Code, § 15.04.040)

(G) *Permit applications.* A building permit shall be required for the construction, alteration, removal or demolition of a building or structure within the city limits. A building permit must be submitted to the building official for approval a least three working days prior to the start of construction, removal or demolition. After approval by the Building Official, the building permit must then be approved by the Building Permit Committee.
(Prior Code, § 15.04.050)

(H) *Building Official; right of entry.* The Building Official, in the discharge of his or her official duties and upon proper identification, shall have authority to enter any building, structure or premises at any reasonable hour.
(Prior Code, § 15.04.060)
(Ord. 1999-12-1, passed - -1999; Ord. 2003-6-2, passed 6-2-2003) Penalty, see § 150.99

§ 150.02 FIRE CODE.

(A) *Definition.* Wherever the word “municipality” is used in the code adopted in this section, it shall be held to mean the city.
(Prior Code, § 15.12.010)

(B) *Adoption of Fire Prevention Code.* There is adopted by the city for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain code known as the Fire Prevention Code, abbreviated edition, recommended by the National Board of Fire Underwriters, being particularly the most current edition thereof and the whole thereof, save and except such portions as are hereinafter deleted, modified or amended, of which code at least one current copy has been and now is filed in the office of the city’s Finance Officer and the same is adopted and incorporated as fully as if set out at length herein, and the provisions thereof shall be controlling within the limits of the city.
(Prior Code, § 15.12.020)

(C) *Enforcement.* The code adopted in this section shall be enforced by the City Police Department.
(Prior Code, § 15.12.030)

(D) *Restrictions on storage of flammable liquid.* The limits referred to in § 804A of the code adopted in this section in which storage of flammable liquids in outside aboveground tanks is prohibited, and the limits referred to in § 1104 of the code adopted in this section, in which bulk storage of liquefied petroleum gas is restricted, are established as the limits set forth in division (G) below.
(Prior Code, § 15.12.040)

(E) *Modification of provisions.*

(1) The Chief of the Fire Department shall have power to modify any of the provisions of this code upon application in writing by the owner or lessee, or his or her duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code; provided that, the spirit of the code shall be observed, public safety secured and substantial justice done.

(2) The particulars of such modification when granted or allowed and the decision of the Chief of the Fire Department thereon shall be entered upon the records of the Department and a signed copy shall be furnished the applicant.

(Prior Code, § 15.12.050)

(F) *Appeals.* Whenever the Chief of the Fire Department shall disapprove an application or refuse to grant a license or permit applied for, or when it is claimed that the provisions of the code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the Chief of the Fire Department to the City Council within 30 days from the date of the decision of the appeal.

(Prior Code, § 15.12.060)

(G) *Fire limits established.* The fire limits of the city are established as follows: all of Blocks 17, 22, 23, 24, 25, 26, the east half of Block 27, and the south half of Block 18, all in Bryson's Addition to the city; Lot 7, and Lots 13 to 18, both inclusive, in Block 64 and, also, all lots, as platted and recorded of record, in Block 17, 22, 23 and 24, all in Western Town Lot Company's Addition of the city; and Lots 4, 5 and 6 of Block 68 in Piatt's Addition to Gettysburg, except residential dwellings.

(Prior Code, § 15.12.070)

(Ord. 1999-12-1, passed - -1999)

§ 150.03 UNVENTED APPLIANCE CODE.

Unvented gas heaters shall be allowed under the following conditions.

(A) Unvented room heaters shall not be installed in bathrooms or bedrooms.

(1) *Exception 1.* Where approved by the authority having jurisdiction, one listed wall-mounted unvented room heater equipped with an oxygen depletion safety shutoff system shall be permitted to be installed in a bathroom; provided that, the input rating shall not exceed 6,000 Btu per hour and combustion and ventilation air is provided as specified in § 6.1(b) of the National Fuel Gas Code (ANSI 7.22.3.1/NFPA 54).

(2) *Exception 2.* Where approved by the authority having jurisdiction, one listed wall-mounted unvented room heater equipped with an oxygen depletion safety shutoff system shall be permitted to be installed in a bedroom; provided that, the input rating shall not exceed 10,000 Btu per hour and combustion and ventilation air is provided as specified in § 6.1(b) of the National Fuel Gas Code (ANSI 7.223.1/NFPA 54).

(B) “Bedroom” or “bathroom” under the exceptions named above shall be defined as an unconfined space whose volume is not less than 50 cubic foot per 1,000 Btu per hour of the aggregate input rating of all appliances installed in that space.

(Prior Code, § 15.16.010) (Ord. 1995-1, passed - -1995)

§ 150.04 INTERNATIONAL PROPERTY MAINTENANCE CODE.

A certain document, three copies of which are on file in the office of the city’s Finance Officer, being marked and designated as the International Property Maintenance Code, 2018 edition, as published by the International Code Council, be and is hereby adopted as the Property Maintenance Code of the city for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures, are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures as herein provided; proving for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions penalties, conditions and terms of said Property Maintenance Code on file in the office of the city are hereby referred to, adapted and made a part hereof as if fully set out in this legislation:

(A) Chapter 4, Light, Ventilation and Occupancy Limitations: remove this entire Chapter 4;

(B) Chapter 5, Plumbing Facilities and Fixture Requirements: remove this entire Chapter 5;

(C) Chapter 6, Mechanical and Electrical Requirements: remove this entire Chapter 6; and

(D) Chapter 7, Fire Safety Requirements: remove this entire Chapter 7.

(Ord. 2013-6-6, passed 11-5-2013)

BUILDING PERMITS; FEES

§ 150.20 CONSTRUCTION, IMPROVEMENTS; BARRING MAINTENANCE OR REPAIR.

(A) For any construction or property improvements such as: fences, decks, underground sprinklers, storage sheds, driveways/patios and the like, the following fees shall be charged:

(1) For construction costing from \$0 to \$5,000, there is no fee, but a building permit is required;

(2) For construction costing from \$5,001 to \$200,000, a permit and fee of \$25 is required;

(3) For construction costing \$200,000+, a permit and fee of \$50 is required; and

(4) Payment of the above listed fees shall be made out to the city and collected by the city's Finance Office.

(B) Any construction or property improvement existing within the city right-of-way or curb and gutter must be completed in 30 calendar days.

(Prior Code, § 15.05.010) (Ord. 0696-2, passed - -1996)

§ 150.21 MOVING EXISTING RESIDENTIAL STRUCTURES.

No person shall move an existing residential structure, including detached garages permanently anchored to a foundation, without first receiving approval from the Building Committee.

(Prior Code, § 15.05.020) (Ord. 0696-2, passed - -1996)

§ 150.22 DEMOLITION OF A STRUCTURE.

Any person demolishing a structure is required to have a \$500 deposit for the demolition of buildings or structures for use of city rubble site, including lot restoration, with all or a portion of the fee to be returned to the owner if conditions are complied with.

(Prior Code, § 15.05.030) (Ord. 0696-2, passed - -1996)

§ 150.23 MOBILE HOMES.

(A) Any person moving out a mobile home, but not replacing it with a mobile home, is required to have a \$500 restoration deposit with all or a portion of the deposit be returned to the owner if conditions are complied with.

(B) Any person removing a mobile home and replacing said existing mobile home with another mobile home is required to follow § 150.20 of this chapter.

(Prior Code, § 15.05.040) (Ord. 0696-2, passed - -1996)

§ 150.24 CITY ASSESSMENT POLICY.

If the city is responsible for demolition or restoration that exceeds the \$500 deposit, the clean-up will be assessed to the property.

(Prior Code, § 15.05.050) (Ord. 0696-2, passed - -1996)

§ 150.25 AGRICULTURAL LAND WITHIN CITY LIMITS.

Any fencing required for containment of livestock will be exempt for requirement of building permit.

(Prior Code, § 15.05.060) (Ord. 0696-2, passed - -1996)

MOVING BUILDINGS

§ 150.40 PERMISSION TO MOVE BUILDING.

It shall be unlawful for anyone to move any building into, along or across any public street, alley or highway within the city without having obtained permission in compliance with the provisions of this subchapter and obtaining a moving permit.

(Prior Code, § 15.06.040) (Ord. 2012-4-7, passed 5-7-2012) Penalty, see § 150.99

§ 150.41 APPLICATIONS.

(A) *Requirements.* Anyone desiring to move any building larger than 120 square feet into, along or across any public street, alley or highway within the city, shall first apply in writing for permission so to do, to the office of the city's Finance Officer, fully stating:

- (1) Applicant name;
- (2) Name of the owner of the building;
- (3) The description of the lot on which said building is currently standing;
- (4) The lot to which said building is to be moved;
- (5) The street/route along which it is proposed to transport such building;
- (6) The time when such moving will take place;
- (7) The intended use of said building;

(8) The type of construction (brick, frame, block, steel, pole and the like) of building;

(9) The size of the building;

(10) The proposed plan to remove all basements or foundation upon which the moved building is situated, including provisions for capping all water and sewer lines; and

(11) All other data requested on the application reviewed by City Council.

(B) *Fees.*

(1) *Application fees.* All moving permit applications will be submitted to the city's Finance Officer with a non-refundable application fee of \$25.

(2) *Guarantee fund fees.* All moving permit applications shall be accompanied with the sum of \$0.60 per square foot to be deposited with the city's Finance Office. This fund will serve as a pledge or guarantee to protect the city against loss or damage to crossings, sidewalks or other public or private property, or expense for protecting such property against the injuries that may be caused by the moving of such building; said deposit or balance thereof, after deducting the amount of damages or expenses, if any, caused by such removal, shall be returned to the person depositing the guarantee fee upon an official inspection of the condition of the streets, sidewalks, crossings or other public or private property after such removal, made by the city's Building Official.

(Prior Code, § 15.06.050) (Ord. 2012-4-7, passed 5-7-2012)

§ 150.42 GUARANTEE FUND.

Whenever the city's Building Official and Mayor shall decide, from any examination of the application and from such other information as he or she may obtain, that the sum of \$0.60 per square foot is not sufficient as a guarantee fund for ample protection of the city against the probably damages and expenses that may be caused by the removal of such building, the city shall require the deposit of a larger sum than \$0.60 per square foot. A surety bond may be filed in place of any amount requested by the city in excess of the calculated amount.

(Prior Code, § 15.06.060) (Ord. 2012-4-7, passed 5-7-2012)

§ 150.43 PERMIT ACTIONS.

(A) *Approvals.* The approved applicant shall receive a written permit for the moving of such building indicating:

(1) Along or across which streets, highways or alleys movement can occur;

(2) The time allocated before such work shall be completed. Said moving is to be finished six months after the approval of the permit for all approved permits; and

(3) No moving permit granted by the city shall authorize the holder thereof to break, injure or move any telephone, electric, light, power or cable television wire or pole, or to cut, trim or otherwise interfere with any property without the written permission of the owner or owners thereof.

(B) *Early approvals.* Applicants proposing to move a building prior to the next set date of the City Council regularly scheduled meeting can ask that their applications be approved by the Building Code Committee.

(1) The applicant can request to the city's Finance Officer or Deputy Finance Officer early approval of requested permit. If this is sought by the applicant, the city's Finance Officer or Deputy Finance Officer shall contact said Committee members to inform them that an applicant needs review. It shall be the responsibility of said Committee members to conduct this review in the designated time period and report back to the Finance Office their decision.

(2) The Committee shall review the application within three days and approval or disapproval shall be provided to the said applicant by the third day.

(C) *Extensions.*

(1) The applicant can request extension of the permit to the City Council at no charge if the request is made prior to the end of the approved timeframe in which the project was to be completed.

(2) If the structure is not moved prior to the end of the approved timeframe and the applicant decides not to relocate the building no action will be taken by the Building Inspector or the City Council. The applicant's guarantee fund will be returned; however, the \$25 application fee will not be refunded. (Prior Code, § 15.06.070) (Ord. 2012-4-7, passed 5-7-2012)

§ 150.44 REFUNDING GUARANTEE FUND.

Before refunding said guarantee fund, surety bond or any part thereof, the City Council shall examine the report of the local Building Inspector and pay out of said fund or set aside for such purposes the amount claimed as ascertained for damages or injuries to any public or private property, including the expenses of protection to sidewalk, streets, curb/gutter, electric, cable television and/or telephone wire as aforesaid, caused or occasioned by the moving of such building. (Prior Code, § 15.06.080) (Ord. 2012-4-7, passed 5-7-2012)

§ 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 of this code of ordinances.

(B) Failure to follow proper procedures, per § 150.01 of this chapter, and time limit could result in permit rejection and up to a \$200 fine.

(Prior Code, § 15.04.050)

(C) Any construction or property improvement without a building permit, as required in § 150.20 of this chapter, will result in a \$100 fine.

(Prior Code, § 15.05.010)

(D) Failure of moving permit acquisition shall lead to a non-refundable fine calculated at \$1 per square foot per the size of the building being moved.

(Prior Code, § 15.06.090)

(Ord. 0696-2, passed - -1996; Ord. 2003-6-2, passed 6-2-2003; Ord. 2012-4-7, passed 5-7-2012)

Statutory reference:

Concerning Building Code violations, see SDCL §§ 9-19-3, 22-6-2

CHAPTER 151: STREETS, SIDEWALKS AND PUBLIC PROPERTY

Section

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USE OF STREETS**§ 151.001 OBSTRUCTIONS ON STREETS.**

No person shall place, leave or keep on any public street, road, alley, sidewalk or other public ground in the city any wagon, automobile, cart, truck sleigh or other vehicle, except when the same shall be in actual use, nor shall any person place, leave or keep on any public street, road, alley, sidewalk or other public ground in the city, any other article, substance or material which may obstruct the free use of said street, road, alley, sidewalk or public ground, except as hereinafter provided.
(Prior Code, § 12.04.010) Penalty, see § 151.999

§ 151.002 MATERIAL IN STREETS; PERMITS.

The Council is authorized to grant permission in writing to any person to deposit and keep lumber, stone, brick or other materials for building, in any public sidewalk, street, road or alley adjacent to the building to be erected or repaired, but such permission shall not excuse the obstruction or occupancy with such materials of more than one-third in width of any carriage way of any street or road.
(Prior Code, § 12.04.020) Penalty, see § 151.999

§ 151.003 STREET CLEANING.

Every person to whom permission may be granted, as in § 151.002 of this chapter, to place and keep building material in the street, road, alley shall cause all such material and the rubbish resulting

therefrom, to be removed from such sidewalk, street, road or alley at the expiration of the time limited in the permit, unless the time shall for good cause be extended by the Council; and any person depositing and keeping any building material on such sidewalk or in such street, road or alley under a permit from the Council, shall during every night while the material shall there remain, keep one or more lighted lanterns or flares so placed that such material may be easily seen by persons passing along such sidewalk, street, road or alley.

(Prior Code, § 12.04.030) Penalty, see § 151.999

§ 151.004 STREET EXCAVATIONS.

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

(Prior Code, § 12.04.040) Penalty, see § 151.999

§ 151.005 BUILDING IN STREET.

No person shall erect or maintain any building in such a position that the same shall stand in whole or in part upon any public street, road, alley or sidewalk, or so constructed that any part of the building proper shall project into or over such street, road, alley or sidewalk; provided that, jut windows, cornices and other projections from the buildings above the first story may extend over an adjoining street, road, alley or sidewalk, not exceeding 18 inches; and no person shall construct any step, area or other appurtenance to any building extending over or upon the sidewalk, nor shall any person erect in any public street or road any flight of stairs or step leading to any floor of any building.

(Prior Code, § 12.04.050) Penalty, see § 151.999

§ 151.006 EAVE PIPES.

No person shall place or maintain any pipe leading from the eaves of any building or any part of any building in such a position that the water discharged from the roof of said building will flow upon or over any public sidewalk in the city.

(Prior Code, § 12.04.060) Penalty, see § 151.999

§ 151.007 GARBAGE IN STREETS.

It is unlawful for any person, firm or corporation to throw, or deposit any ashes, offal, dirt, garbage, decaying vegetables, fish, meat, manure, filthy water, slops or any other offensive or putrid

matter or thing into or upon any street, avenue, lane, alley or public ground within the corporate limits of the city or into any stream of water within the limits of the city or forming the boundaries thereof. (Prior Code, § 12.04.070) Penalty, see § 151.999

§ 151.008 ANIMALS AND VEHICLES ON SIDEWALKS.

No person shall ride, drive or lead any horse or mule or drive or lead any cow or any other animal, upon any public sidewalk in the city, or draw or propel or cause to be drawn or propelled thereon any vehicle ordinarily drawn by horses; or drive or operate, or cause to be driven or operated, any motor vehicle upon any sidewalk in the city; except that, the same may be driven across any sidewalk in entering or leaving the premises of any person if there is constructed a driveway across the sidewalk at the premises.

(Prior Code, § 12.04.080) Penalty, see § 151.999

SIDEWALKS

§ 151.020 GRADES, SIDEWALKS, CURB AND GUTTER.

The grades for sidewalks, curb and gutter as heretofore established by the city and as shown on the plat or set of plans entitled "Street Grade Survey, Gettysburg, South Dakota", dated June 1956, and now on file in the office of the city's Finance Officer be and the same are established as the official grades for sidewalks, curb and gutter and the necessary drainage of streets.

(Prior Code, § 12.08.010)

§ 151.021 SIDEWALK GRADES.

The grade elevations given by a single dark line and written above this line on the profile of each street are the grade heights of the sidewalks for the street.

(Prior Code, § 12.08.020)

§ 151.022 CURB GRADES.

The grade elevations given by two parallel lines and written below these lines on the profile of each street are the grade heights of the top of the curbs for the street. The bottom line gives the grade height of the gutter which shall be six inches below the top of the curb.

(Prior Code, § 12.08.030)

§ 151.023 STREET GRADES.

The grade elevations given by a single line and the elevation written above this line on the centerline profile of each street are the grade heights of the crown or centerline of the street.

(Prior Code, § 12.08.040)

§ 151.024 METHOD OF GRADE CALCULATION.

(A) All grades between the elevations as written on the plans shall be at the grade as shown on the plans by the profile of the sidewalks, curb and gutter, or centerline as the case may be.

(B) The grade elevation as shown upon the set of plans are calculated in feet and decimals of feet above a certain horizontal plane called the datum plane. Benchmarks shall be those given on the plans and located on every other street intersection through the city. These benchmarks are established at the elevations given on the plans above the datum plane.

(Prior Code, § 12.08.050)

§ 151.025 CHANGES IN GRADE.

Any grades for curb, sidewalks or streets as shown on plat on file in the city's Finance Office shall be changed by ordinance and any additional grades to be established in the city shall be by ordinance.

(Prior Code, § 12.08.060)

§ 151.026 CONSTRUCTION SUPERVISION.

The building and construction of all sidewalks and curbing within the limits of the streets and alleys of the city shall be done under direct supervision of the city and its duly appointed officers and agents and all such sidewalks shall be constructed on the grades as determined by the city.

(Prior Code, § 12.08.070)

§ 151.027 CONSTRUCTION SPECIFICATIONS.

The construction of all sidewalks and curbing, whether to be done by direct contract with the city or by contract with the abutting property owners, shall be done strictly in accordance with the specifications for sidewalks and curbing adopted by the Council and on file in the office of the city's Finance Officer. The Council shall have full power to condemn work and material not in accordance with the requirements of the specifications.

(Prior Code, § 12.08.080)

§ 151.028 PERMIT REQUIRED.

Before any sidewalk or curbing is constructed within the limits of the streets and alleys in the city by any contractor or person or the owner or owners of abutting property, the contractor or person must first secure a permit therefor from the city's Finance Officer.
(Prior Code, § 12.08.090)

§ 151.029 BOND REQUIRED.

(A) Before any such contractor or person shall receive a permit for the construction of any sidewalk or curbing within the limits of the streets or alleys of the city, such contractor or person must first execute a guaranty bond in an amount equal to the total amount of the work to be performed by him or her under the contract therefor, with good and sufficient surety approved by the City Council; or may give a bond in the amount of \$1,000 covering all work to be done by such contractor during the year in which the bond is given.

(B) All such bonds shall require that the contractor or person receiving such permit shall replace all sidewalks and curbing constructed by him or her at any time within the period of three years, from the time of completion of the sidewalks or curbing which, in the opinion of the City Engineer, were not laid in accordance with the required specifications; provided, however, that, no bond shall be required where the owner of the abutting property does his or her own work.
(Prior Code, § 12.08.100)

§ 151.030 SIDEWALK WIDTHS.

Except as otherwise provided, all sidewalks on all side streets shall not be less than four or more than eight feet in width and shall conform to the width, grade and curb lines of the adjoining sidewalks.
(Prior Code, § 12.08.110)

EXCAVATIONS**§ 151.045 PERMIT REQUIRED.**

No person shall make or cause to be made any excavation in or under any street, parking, sidewalk, alley or public ground, or remove any earth, soil, paving, gravel or material therefrom without having first obtained a permit therefor as hereinafter provided.
(Prior Code, § 12.12.010) Penalty, see § 151.999

§ 151.046 APPLICATIONS AND BONDS.

(A) Application for such permit shall be made to the city's Finance Office, who shall secure the approval of the Superintendent of Streets before issuing any such permit. Regarding bituminous material, such application shall be accompanied by a non-refundable fee of \$400, which amount shall be considered compensation to the city for the granting of such permit, the necessary investigation prior thereto, and for the replacement bituminous surface material for any excavations up to and including 45 square feet. This permit shall be valid for ten working days, after which a new permit must be obtained. Regarding concrete material, such application shall be accompanied by a non-refundable fee of \$500, which amount shall be considered compensation to the city for the granting of such permit, the necessary investigation prior thereto, and for the replacement concrete surface material for any excavations up to and including 45 square feet. This permit shall be valid for ten working days, after which a new permit must be obtained. Before any such permit is issued, the person requiring the same shall state in this application where such excavation is to be made, the extent thereof, in front of what lot or lots, for what purpose the excavation is to be made, and whether or not such person has a bond on file with the city's Finance Office for making such excavation. If such applicant has not filed such bond, then before a permit shall be issued, such applicant shall furnish a bond or make the deposit as stated below with the city's Finance Office as a guaranty for the proper refilling of and guarding of such trenches and excavations while in the course of excavating or refilling and the maintenance of the same in good condition for one year thereafter.

(B) All contractors shall show proof of liability insurance, in an amount equal to the city's coverage, to be filed with a permit before work may start. All excavations must be done as set forth in the municipal and state codes.

(C) In addition to the hereinbefore described fee, the applicant shall deposit with the city's Finance Office the amount specified in the following schedule.

(1) *Bituminous*. The city will replace this material. A deposit in the amount of \$9 per each square foot, exceeding 45 square feet, shall be made before excavation. All bituminous must be saw cut.

(2) *Concrete*. The city will replace this material. A deposit in the amount of \$11 per each square foot, exceeding 45 square feet, shall be made before excavation. All concrete must be saw cut. (Prior Code, § 12.12.020) (Ord. 1997-4-1, passed - -1997; Ord. 2017-4-1, passed 5-1-2017; Ord. 2024-10-07, passed 11-4-2024)

§ 151.047 DEPOSIT FORFEITED.

(A) If, at any time within one year after the issuance of the permit referred to in this chapter, the Superintendent of Streets shall find that the work for which the bond deposit was made does not stand a satisfactory test or has not been properly refilled, he or she shall notify the depositor in writing that the work must be put in satisfactory condition within three days, and if the depositor fails to comply with the terms of the notice, then the Superintendent of Streets shall have authority to cause such work to be

put in proper and satisfactory condition and charge the expense thereof to the sum deposited. The balance unexpended at the expiration of one year from the date of such permit shall upon order of the City Council be returned by the Finance Officer to the depositor.

(B) In cases where a deposit is put up for all work done by any person as provided in this subchapter, the Superintendent of Streets shall have power to cause the repairing or refilling of any excavations made by such person if he or she fails to do so upon three days' written notice, and the expense thereof shall be charged to his or her deposit, and such depositor shall immediately replenish such deposit to the original amount.

(Prior Code, § 12.12.030)

§ 151.048 SUPERVISION OF EXCAVATIONS.

The Superintendent of Streets shall supervise all excavations made for any purpose in the streets, alleys or public grounds, and the Superintendent of Streets shall require that all excavations be backfilled in the manner specified.

(Prior Code, § 12.12.040)

§ 151.049 GUARDING EXCAVATIONS.

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

(Prior Code, § 12.12.050)

§ 151.050 REFILLING EXCAVATIONS.

(A) Any person making such excavation shall, when the same shall be completed, promptly and without delay, refill the same as herein provided.

(B) In refilling any excavation the earth shall be thoroughly settled as the refilling progresses by using water to compact the earth; the earth shall be thoroughly tamped in successive layers of approximately six inches, in such a manner that all the earth shall be replaced in the excavation leaving the surface in its original condition.

(C) In making connection to fire hydrants for flushing excavations, all rules and regulations of the Water Department relating thereto shall be observed.

(D) In all cases where excavations are made in the paved district, the earth shall be replaced in the manner above specified, and the pavement shall be replaced by the Department of Streets.
(Prior Code, § 12.12.060)

§ 151.051 EXCAVATIONS NEAR STREETS.

It is unlawful for any person, owner or occupant of any lot to make or cause to be made any excavation on the lot adjacent to any street, alley, public ground or traveled road, or roadway, except the same be securely guarded so as to prevent the injury of any person or animal passing upon or along the same.
(Prior Code, § 12.12.080) Penalty, see § 151.999

SNOW REMOVAL

§ 151.065 DUTY OF OWNER OR OCCUPANT.

(A) It shall be the duty of the owner or occupant or person in possession or in charge of any lot, parcel or plot of ground fronting or abutting upon any sidewalk, to keep such sidewalk free and clear from snow and ice at all times. When it is impossible to take snow and ice from such walk by reason of its being frozen to the sidewalk, the owner or occupant or person in charge of such lot shall sprinkle or spread some suitable material upon the same to prevent the walk from becoming slippery and dangerous to travel, and in removing snow from said sidewalk, it shall be unlawful for any person to shovel or blade the snow so removed into the street after the street has been cleared of snow by the city snow removal equipment.

(B) It shall be unlawful to deposit snow so removed on boulevards within 25 feet of any intersection or alleyway or to pile snow higher than five feet on any portion of the boulevard.

(C) Snow from one's own property shall not be deposited on any boulevard that is not adjacent to said owner.
(Prior Code, § 12.16.010) (Ord. 1997-12-4, passed - -1997) Penalty, see § 151.999

§ 151.066 CITY REMOVAL.

If the owner or person in possession or in charge of any of said lots, parcels or plots of ground fails or refuses to remove the snow or ice from such sidewalk within 12 hours of the falling of said snow or the forming of said ice, the city shall remove or cause to be removed the snow or ice each time it is necessary, and assess the cost thereof against the fronting or abutting property.
(Prior Code, § 12.16.020)

§ 151.067 COSTS ASSESSED; RECOVERY.

(A) (1) The officer in charge of streets shall cause an account to be kept against each lot for the removal of snow from the sidewalks each year and same shall be certified to the city's Finance Officer on or before May 15 of each year.

(2) The Finance Officer shall prepare an estimate of the assessment against such lot for the removal of snow for the preceding winter and fall and submit the same to the Council for its approval on or before June 1 of each year, and shall publish in the official newspaper a notice to property owners of the time and place when and where the Council will meet for the purpose of approving such estimate. Such notice shall be published at least one week prior to the date set for said hearing.

(3) Upon the day so named, the Council shall meet and, if it finds the estimate correct, shall approve the same, with or without modification or amendments as they may deem proper, and file the assessment with the city's Finance Officer. From the date of such approval and filing, the same shall be a special lien against the various pieces of property described in the assessment and shall be collected in like manner as special assessments are now collected for public improvements.
(Prior Code, § 12.16.030)

(B) In lieu of spreading the cost of such snow removal as a special assessment against the property in the discretion of the Council, the amount may be recovered in a civil action against the owner or occupant of the property.
(Prior Code, § 12.16.040)

SNOW REMOVAL SEASON; PARKING**§ 151.080 PARKING VEHICLES ON STREETS AFTER SNOW PROHIBITED.**

(A) (1) Whenever more than two inches of snow have fallen in the city, it shall be unlawful for any person to park any vehicle upon the streets or alleys of the city for a 24-hour period following such snowfall, or until snow removal operations have been completed, whichever event shall first occur.

(2) Such parking, if otherwise lawful, may resume on any portion of any such street or alley on which snow removal operations have been completed.

(B) For purposes of this subchapter, **VEHICLES** shall mean any device in, upon or by which any person or property is or may be transported or drawn upon a public highway. For purposes of this subchapter, **MOTOR VEHICLES** shall mean every vehicle which is self-propelled.

(Prior Code, § 12.14.010) (Ord. 366, passed - -1994; Ord. 1997-12-4, passed - -1997) Penalty, see § 151.999

§ 151.081 TOWING OF VEHICLES IN VIOLATION.

(A) Vehicles in violation of this subchapter may be removed to a garage or other place of safekeeping at the direction of a police officer or city maintenance worker designated by the City Council. Any towing or storage charge incurred by the city in connection with such towing and storage shall be assessed against such vehicle and paid by the owner thereof as a condition for the owner to remove or to claim or to recover such vehicle from the city.

(B) In the event the vehicle was stored on city property, a storage charge of \$5 per day shall be assessed on each vehicle and in a like manner collected from the owner of such vehicle.
(Prior Code, § 12.14.030) (Ord. 366, passed - -1994; Ord. 1997-12-4, passed - -1997)

§ 151.082 UNAUTHORIZED REMOVAL OF IMPOUNDED VEHICLE.

No person shall remove a vehicle impounded by the city because of violation of this subchapter until all fines, bonds and towing and storage fees have been paid to the city.
(Prior Code, § 12.14.040) (Ord. 366, passed - -1994; Ord. 1997-12-4, passed - -1997; Ord. 2012-11-21, passed 12-3-2012) Penalty, see § 151.999

§ 151.999 PENALTY.

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

(B) Any person whose duty it shall be to remove snow as set forth in § 151.065 of this chapter, and who fails to remove such snow within the time therein set forth, shall be guilty of a misdemeanor; and, upon conviction thereof, shall be fined not exceeding \$100, in addition to the other penalties prescribed in §§ 151.065 through 151.067 of this chapter; and, in addition thereto, shall be liable to the municipality for any damage caused by the neglect to keep such sidewalk clear and free of snow and ice as provided in §§ 151.065 through 151.067 of this chapter.
(Prior Code, § 12.16.050)

(C) (1) Any person violating §§ 151.080 through 151.082 of this chapter shall be punished by a fine of \$25 (first offense) and additional violation fines are \$50, which shall be paid in addition to any other charges or fees assessed pursuant to §§ 151.080 through 151.082 of this chapter.
(Prior Code, § 12.14.050)

(2) Removal of any impounded vehicle without payment and permission of an authorized city representative shall be assessed an additional fine of \$100 due and payable in addition to any other charges or fees assessed pursuant to §§ 151.080 through 151.082 of this chapter.
(Prior Code, § 12.14.040)
(Ord. 366, passed - -1994; Ord. 1997-12-4, passed - -1997; Ord. 2012-11-21, passed 12-3-2012)

CHAPTER 152: TREES

Section

- 152.01 Duty of owner
- 152.02 Notice to destroy
- 152.03 Action upon non-compliance
- 152.04 Cost assessment

- 152.99 Penalty

§ 152.01 DUTY OF OWNER.

Permitting tree branches to be lower than 12 feet above a street, alley or avenue, permitting tree branches to be lower than eight feet above any sidewalk or by permitting any bush branches to impede upon any sidewalk is declared to be a nuisance and 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 any sidewalk abutting the same.

(Prior Code, § 8.14.010) (Ord. 2009-1-2, passed 3-2-2009)

§ 152.02 NOTICE TO DESTROY.

The Health Officer or Property Maintenance Officer is authorized and empowered to notify in writing the owner of any such lot, place or area within the city, or the agent of such owner, or the occupant of such premises, to cut, trim or remove such trees found overhanging any street, alley, avenue or sidewalk.

(A) Such notice shall be given by delivering a written notice personally to the owner(s) of the property upon which the nuisance is located, or by depositing such notice in the United States Mail, postage prepaid, and addressed to the owner(s) thereof at his or her last known address as the name appears on the last equalized assessment roll of the county. In the event a notice to remove is also given to the person(s) in possession or control of the property, such notice shall be given in either manner specified in this section and may be addressed to "occupant" or "to whom it may concern", if the name of such person(s) is not known.

(B) The person giving the notice shall file a copy thereof in the office of the Finance Officer, together with an affidavit or certificate stating the time and manner in which such notice was given. The failure of any owner or other person to receive such notice shall not effect in any manner the validity of any proceedings taken under this chapter.

(Prior Code, § 8.14.020) (Ord. 2009-1-2, passed 3-2-2009)

§ 152.03 ACTION UPON NON-COMPLIANCE.

Upon failure, neglect or refusal of any owner, agent or occupant so notified to comply with the notice within five days after the mailing thereof, the Property Maintenance Officer is authorized and empowered to provide for the cutting, trimming or removal of such trees and to defray the cost of the cutting, trimming or removal thereof by special assessment against the property as set out in § 152.04 of this chapter.

(Prior Code, § 8.14.030) (Ord. 2009-1-2, passed 3-2-2009)

§ 152.04 COST ASSESSMENT.

The city's Finance Officer shall cause an account to be kept against each lot for the cutting, trimming or removal of trees and shall thereupon certify the account showing the amount, the description of the property and the owner thereof to the city assessor who shall thereupon add such assessment to the county or general assessment against the property and shall certify such special assessment together with the regular to the County Auditor to be collected as municipal taxes for general purposes. The assessment shall be subject to review and equalization the same as assessments or taxes for general purposes.

(Prior Code, § 8.14.040) (Ord. 2009-1-2, passed 3-2-2009)

§ 152.99 PENALTY.

Any person whose duty it is to cut, trim or remove trees as set forth in this chapter or who fails to cut, trim or remove same within the time set forth in § 152.03 of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not exceeding \$100 in addition to other penalties as prescribed in this chapter.

(Prior Code, § 8.14.060) (Ord. 2009-1-2, passed 3-2-2009)

CHAPTER 153: TRAILERS AND TRAILER COURTS

Section

- 153.01 Definitions
- 153.02 Layout of trailer courts
- 153.03 Service buildings
- 153.04 Waste and garbage disposal
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- 153.08 Investigation of application
- 153.09 Permit fee
- 153.10 Trailer court inspection
- 153.11 Permit revocation

§ 153.01 DEFINITIONS.

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

DEPENDENT TRAILER COACH. A trailer coach which does not have a toilet and bathtub or shower.

INDEPENDENT TRAILER COACH. A trailer coach which does have a toilet and bathtub or shower.

PERSON. Includes a natural person, firm, corporation, partnership, cooperative organization or association, mutual or joint stock company.

TRAILER COACH. Any vehicle, whether self-propelled or drawn by another vehicle used and maintained for use, or originally designed and intended for use, as a conveyance upon the streets and highways, and so designated and so constructed as to permit occupancy thereof as a dwelling or sleeping place for one or more persons.

TRAILER COACH SPACE. A plot of ground within a trailer court, designated for the accommodation of one trailer coach.

TRAILER COURT. Any plot of ground upon which two or more trailer coaches, occupied for dwelling or sleeping purposes are located.

(Prior Code, § 17.04.010)

§ 153.02 LAYOUT OF TRAILER COURTS.

Any trailer court, as herein defined, shall be located on a well drained site, and shall be so located that its drainage will not endanger any water supply, and shall be in any area free from any marsh, swamp or other potential breeding place for insects or rodents. The area of any trailer court shall be large enough to accommodate the designated number of trailer coaches, necessary streets and roadways, service buildings and a parking area for motor vehicles. Each trailer coach space shall contain a minimum of 600 square feet, shall be at least 20 feet wide and shall abut on a driveway or other clear area with unobstructed access to a public street. There must be a minimum of 12 feet between trailer coaches. It is illegal to allow a trailer coach to remain in a trailer court unless a trailer coach space is available. It is illegal to park a trailer coach less than 20 feet from any street or highway, or so that any part of such trailer coach will obstruct any roadway or walkway. Access roads shall be provided to each trailer coach. Areas shall be provided for the parking of motor vehicles. Such areas shall accommodate at least the number of vehicles equal to the number of trailer coach spaces provided.

(Prior Code, § 17.04.030) Penalty, see § 10.99

§ 153.03 SERVICE BUILDINGS.

Each trailer court, as herein defined, shall be provided with one or more service buildings adequately equipped as herein specified.

(A) Each service building shall contain two toilets for females, one for males, one lavatory and shower for each sex, one urinal for men, one laundry tray and one slop water closet.

(B) Dependent trailer coaches shall be parked not more than 200 feet from such service building.

(C) Such service building shall be of permanent construction and adequately lighted at all times.

(D) Such service building shall be of moisture-proof materials to permit frequent washing and cleaning.

(E) Such service building shall have adequate, safe heating facilities to maintain a temperature of not less than 70°F during cold weather, and to supply a minimum of three gallons of hot water per hour per coach space during periods of peak demand.

(F) Such service building shall have all rooms well ventilated with all openings effectively screened.

(G) Such service building shall be located 15 feet or more from any trailer coach space.
(Prior Code, § 17.04.040) Penalty, see § 10.99

§ 153.04 WASTE AND GARBAGE DISPOSAL.

(A) No person, as herein defined, shall deposit or drain any waste water, liquid waste, sewage or garbage of any kind, or permit the same to be done, upon the ground or upon any paved or graveled area within any trailer court, nor upon any street, alley or any lot within the corporate limits of the city. The storage, collection and disposal of refuse in the trailer court shall be so managed as to create no health hazards, rodent harborage, insect breeding areas, accident hazards or air pollution. All refuse shall be stored in fly-weight, water-tight, rodent-proof containers, which shall be located no more than 150 feet from any trailer coach space.

(B) They shall be provided in sufficient number and capacity to prevent any refuse from overflowing.

(Prior Code, § 17.04.050) Penalty, see § 10.99

§ 153.05 WATER SUPPLY AND DISPOSAL.

(A) Each trailer space shall be directly connected with the public water system and public sanitary sewer system. The water system shall be connected by pipes to all buildings and trailer coach spaces, and water service connections which are provided for direct use by trailer coaches shall be constructed so that they will not be damaged by parking of such coaches.

(B) Each trailer coach space shall be provided with at least a three-inch sewer connection, and provided with equitable fittings so that a water-tight connection can be made between the trailer coach drain and sewer connection, and so constructed that they can be closed when not linked to a coach, and shall be trapped in such a manner as to maintain them in an odor-free condition.

(Prior Code, § 17.04.060)

§ 153.06 PERMIT REQUIRED; APPLICATION CONTENTS.

(A) (1) It is unlawful for any person to construct, maintain, operate or alter any trailer court within the limits of the city unless he or she shall hold a valid permit issued annually by the City Council, upon approval of application.

(2) All applications shall be made to the City Council.

(3) No permit shall be transferable and permits shall expire on April 1 in each year.

(Prior Code, § 17.04.070)

(B) Each applicant for a permit to operate a trailer court shall make such application in writing, signed by applicant and accompanied by affidavit, as to truth of application and shall contain the following information:

- (1) The name and address of applicant;
- (2) Location and legal description of trailer court premises;
- (3) A complete plan of trailer court, showing compliance with all applicable provisions of the ordinance and regulations promulgated thereunder;
- (4) A complete plan, for purpose of obtaining a permit to be issued by the City Council shall show:
 - (a) The area and dimensions of the tract of land;
 - (b) The number, location and size of all trailer coach spaces;
 - (c) The location and width of roadways and walkways;
 - (d) The location of service buildings and any other proposed structures; and
 - (e) The location of all water and sewer lines.

(Prior Code, § 17.04.080)

§ 153.07 TRANSFER OF BUSINESS.

Any person operating a trailer court under permit as provided in this chapter, who disposes of his or her business, shall give notice to the city within one week of such transfer and the new owner shall make application for a permit within one week after taking possession.

(Prior Code, § 17.04.090)

§ 153.08 INVESTIGATION OF APPLICATION.

The Public Health Officer of the city shall inspect every trailer court or proposed trailer court upon application being made for permit, as herein defined, for purposes of determining compliance with the provisions of this chapter, and no permit shall be issued by the City Council, except upon recommendation of the Public Health Officer, that such trailer court or proposed trailer court complies with the requirements of this chapter.

(Prior Code, § 17.04.100)

§ 153.09 PERMIT FEE.

There shall be collected for each application for new permit or application of renewal permit, the sum of \$1 per trailer coach space, payable to the city, which application fee shall accompany the application.

(Prior Code, § 17.04.110)

§ 153.10 TRAILER COURT INSPECTION.

The Public Health Officer is authorized and directed to make inspections to determine the condition of trailer courts located within the limits of the city, in order that he may perform his or her duty of safeguarding the health and safety of the occupants of trailer courts and of the general public. The Public Health Officer shall have the power to enter at reasonable times upon any private or public property for the purpose of inspecting and investigating conditions relating to the compliance with this chapter, or any regulations promulgated thereunder. It shall be the duty of the owners or occupants of trailer courts, and trailer coaches contained therein, or of persons in charge thereof, to give the Public Health Officer free access to such premises at reasonable times for the purposes of inspection.

(Prior Code, § 17.04.120)

§ 153.11 PERMIT REVOCATION.

Any permit may be revoked by the City Council, at any time, for any violation of this chapter or regulations promulgated thereunder, upon the signed report of the Public Health Officer, after inspection showing violation.

(Prior Code, § 17.04.130)

CHAPTER 154: FLOOD DAMAGE PREVENTION

Section

- 154.01 Authorization
- 154.02 Purpose
- 154.03 Objectives
- 154.04 Definitions
- 154.05 Lands to which chapter applies
- 154.06 Compliance
- 154.07 Abrogation and greater restrictions
- 154.08 Interpretation
- 154.09 Warning and disclaimer of liability
- 154.10 Development permit
- 154.11 Flood hazard reduction

§ 154.01 AUTHORIZATION.

(A) The legislature of the state has, in its codified laws, delegated the responsibility to local government units to adopt regulations designed to promote the public health, safety and general welfare of its citizenry. SDCL §§ 9-36-15 and 9-36-16 grant municipalities the power to enter into agreements for cooperation in flood control projects and their implementation.

(B) Therefore, the Council does ordain as follows.

(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 flood-proofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

(Prior Code, § 17.08.010) (Ord. 1997-2-1, passed - -1997)

§ 154.02 PURPOSE.

It is the purpose of this chapter to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions to specific areas by provisions designed:

(A) To protect human life and health;

(B) To minimize expenditure of public money for costly flood control projects;

(C) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(D) To minimize prolonged business interruptions;

(E) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;

(F) To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;

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

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

(Prior Code, § 17.08.010) (Ord. 1997-2-1, passed - -1997)

§ 154.03 OBJECTIVES.

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.

(Prior Code, § 17.08.010) (Ord. 1997-2-1, passed - -1997)

§ 154.04 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. 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. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

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

(Prior Code, § 17.08.020) (Ord. 1997-2-1, passed - -1997)

§ 154.05 LANDS TO WHICH CHAPTER APPLIES.

This chapter shall apply to all areas within the jurisdiction of the city.
(Prior Code, § 17.08.030) (Ord. 1997-2-1, passed - -1997)

§ 154.06 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.
(Prior Code, § 17.08.030) (Ord. 1997-2-1, passed - -1997)

§ 154.07 ABROGATION AND GREATER RESTRICTIONS.

(A) This chapter is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions.

(B) However, where this chapter and other sections relating to easement, covenant or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
(Prior Code, § 17.08.030) (Ord. 1997-2-1, passed - -1997)

§ 154.08 INTERPRETATION.

In the interpretation of this chapter, all provisions shall be:

(A) Considered as minimum requirements;

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

(C) Deemed neither to limit, or repeal, any other powers granted under state statute.
(Prior Code, § 17.08.030) (Ord. 1997-2-1, passed - -1997)

§ 154.09 WARNING AND DISCLAIMER OF LIABILITY.

This chapter shall not create liability on the part of the city, any officer or employee thereof, or the Federal Emergency Management Agency for any flood damages that result from reliance on this section or any administrative decision lawfully made thereunder.
(Prior Code, § 17.08.030) (Ord. 1997-2-1, passed - -1997)

§ 154.10 DEVELOPMENT PERMIT.

(A) A development permit shall be obtained before construction or development begins within the city.

(B) Application for a development permit shall be made on forms furnished by the city's Finance Office 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.

(Prior Code, § 17.08.040) (Ord. 1997-2-1, passed - -1997)

§ 154.11 FLOOD HAZARD REDUCTION.

(A) *General standards.* If a 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) 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) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage..

(3) All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(B) *New and replacement water supply, sanitary sewage and waste disposal systems.*

(1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

(2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.

(3) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(C) *Subdivision proposals.* All subdivision proposals shall be consistent with the need to minimize flood damage. All subdivision proposals shall have public utilities and facilities such as sewer, gas,

electrical and water systems located and constructed to minimize flood damage. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

(Prior Code, § 17.08.050) (Ord. 1997-2-1, passed - -1997)

TABLE OF SPECIAL ORDINANCES

Table

I. FRANCHISE AGREEMENTS

II. REAL ESTATE TRANSACTIONS

TABLE I: FRANCHISE AGREEMENTS

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
2007-1-3	3-19-2007	Granting a non-exclusive broadband communications system franchise to Venture Vision, Inc.
2012-9-19	11-5-2012	Granting a gas distribution system franchise to Montana-Dakota Utilities Co.

TABLE II: REAL ESTATE TRANSACTIONS

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
Res. 2019-9-4	9-4-2019	Transfer of Lot Two, Gettysburg Medical Center Addition from the city to Avera Gettysburg.

PARALLEL REFERENCES

References to South Dakota Codified Laws

References to Prior Code

References to Resolutions

References to Ordinances

REFERENCES TO SOUTH DAKOTA CODIFIED LAWS

<i>SDCL Section</i>	<i>Code Section</i>
1-19B	32.30
6-12-5	72.37
7-12-29	90.04
9-1-1	10.02; 10.04
9-8-4.1	30.15
9-13-13	10.04
9-14-22	31.02
9-19-1	10.04
9-19-3	10.99; 150.99
9-29-12	Ch. 90
9-36-15	154.01
9-36-16	154.01
10-45	35.02; 35.05; 35.99
10-45-13	35.20
10-46	35.03; 35.05; 35.99
10-52	35.01; 35.04
21-10-4	90.45
22-6-2	150.99
22-6-2(2)	10.99
34-20G	113.03—113.05; 113.10
34-20G-1	113.02
Title 35	111.01
35-4-2(4) or (6)	111.07
35-4-81	111.04
35-4-117	111.05
39-11-2	90.20
40-1-1(5)	90.02
40-1-1(11)	90.02
40-1-2(9)	90.02
40-1-2(10)	90.02
40-1-2.4	90.02
40-12-0 through 40-12-6	90.04
40-12-4	90.02
40-33-3	90.20
40-34-13 through 40-34-14	90.45

REFERENCES TO PRIOR CODE

<i>Prior Code</i>	<i>2021 Code</i>
1.01.100	10.15
1.08.010	11.01
1.08.020	11.02
1.08.030	11.03
2.04.010	30.01
2.08.020	30.17
2.08.030	30.18
2.08.040	30.19
2.12.030	31.02
2.16.010	31.01
2.20.010	33.01
2.20.020	33.02
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5.08.040	110.01
5.08.050	110.02; 110.99
5.08.070	110.03
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5.08.090	110.04; 110.99
5.12.010	110.20
5.16.010	111.01
5.16.020	111.02

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<i>Prior Code</i>	<i>2021 Code</i>
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5.20.090	112.09
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8.04.040	91.01
8.04.050	91.01
8.04.060	91.01
8.08.010	91.15
8.08.020	91.16
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8.08.040	91.18
8.08.050	91.19
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8.12.030	91.32
8.12.040	91.33
8.12.050	91.34
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8.14.020	152.02

<i>Prior Code</i>	<i>2021 Code</i>
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8.14.040	152.04
8.14.060	152.99
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8.28.010	92.01
8.28.020	92.02
8.28.030	92.99
8.32.010	91.02
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9.04.040	130.04
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10.04.040	70.01
10.04.050	70.01
10.04.060	70.01

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<i>Prior Code</i>	<i>2021 Code</i>
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10.04.080	70.01
10.04.090	70.01
10.04.100	70.01
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10.12.070	70.19
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10.18.010	Ch. 73, Schd. II
10.18.020	Ch. 73, Schd. II
10.18.030	Ch. 73, Schd. II
10.28.030	Ch. 74, Schd. II
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10.50.040	72.33
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10.50.090	72.38
10.60.010	72.15
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10.60.030	72.17
10.60.050	72.18
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12.04.010	151.001
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12.04.040	151.004
12.04.050	151.005

<i>Prior Code</i>	<i>2021 Code</i>
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12.04.080	151.008
12.08.010	151.020
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12.08.030	151.022
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12.08.050	151.024
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12.08.080	151.027
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12.08.100	151.029
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13.04.100	52.10
13.04.110	52.11

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<i>Prior Code</i>	<i>2021 Code</i>
13.04.120	52.12; 52.99
13.04.130	52.13
13.04.150	52.14
13.04.170	52.16; 52.99
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13.08.030	51.02; 51.99
13.08.040	51.03; 51.99
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<i>Prior Code</i>	<i>2021 Code</i>
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REFERENCES TO RESOLUTIONS

<i>Res. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
1998-1	4-20-1998	51.04
2019-9-4	9-4-2019	TSO Table II
-	6-8-2020	36.01
2020-11-2	11-2-2020	32.15
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