

CITY OF GREGORY, SOUTH DAKOTA

CODE OF ORDINANCES

AMERICAN LEGAL PUBLISHING CORPORATION

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CODE OF ORDINANCES
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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 “Gregory 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.

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(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.
(SDCL § 9-1-1)

§ 10.03 CAPTIONS.

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

§ 10.04 DEFINITIONS.

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

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 1 day, and involve no questions of priority.

COUNTY. Gregory County, South Dakota.
(SDCL § 9-1-1)

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

GOVERNING BODY. The board of trustees, the board of commissioners, or the common council, as the case may be, of a municipality concerned or affected.
(SDCL § 9-1-1)

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

MONTH. A calendar month.

MUNICIPALITY or **MUNICIPAL CORPORATION.** All cities and towns organized under the laws of this state but shall not include any other political subdivisions.
(SDCL § 9-1-1)

ORDINANCE. A permanent legislative act within the limits of its powers of the governing body of a municipality.
(SDCL § 9-19-1)

OWNER. As used in this code relating to local improvements, the grantee in the last deed of conveyance of any lot or parcel of land recorded in the office of the Register of Deeds of the county or counties in which the municipality is located, or his or her heirs or successors.
(SDCL § 9-1-1)

PUBLICATION. Any requirement for publication shall mean publication in the official newspaper of the municipality concerned or affected, if any; but if none, then, in a legal newspaper published in such municipality, if any; but if none, then, in any legal newspaper which serves such municipality, except as provided by SDCL § 9-13-13. Personal service either within or without the state upon the person affected thereby by delivery of a copy of a notice required to be published shall be equivalent to the required publication.
(SDCL § 9-1-1)

RESOLUTION. Any determination that, decision, or direction of the governing body of a municipality of a temporary or special character for the purpose of initiating effecting, or carrying out its administrative duties and functions.
(SDCL § 9-19-1)

SDCL. South Dakota Codified Laws.

STREET. *STREET* includes *AVENUE*.
(SDCL § 9-1-1)

YEAR. A calendar year.

§ 10.05 SEVERABILITY.

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

§ 10.06 REFERENCE TO OTHER SECTIONS.

Whenever in a 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, enjoyed, and recovered as fully as if the ordinance had continued in force unless it is otherwise expressly provided.

(B) When any ordinance repealing a former ordinance, clause, or provision shall be itself repealed, the repeal shall not be construed to revive the former ordinance, clause, or provision, unless it is expressly provided.

§ 10.13 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.

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

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

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

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

§ 10.99 GENERAL PENALTY.

In all cases where anyone is convicted of violating any provision of this code and where no specific penalty is provided, then the person shall be subject to imprisonment for not to exceed 30 days or a fine of not to exceed \$200 or by both such fine and imprisonment.

(Prior Code, § 1.20.010) (Ord. 107, passed - -1993)

Statutory reference:

Maximum penalty, see SDCL § 9-19-3

CHAPTER 11: CITY STANDARDS

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- 11.01 City seal
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§ 11.01 CITY SEAL.

The seal of the city shall be circular in form, consisting of 2 circular impressions, one within the other, and far enough apart that the words “City of Gregory” may be plainly and legibly enclosed in the upper half, and the words “South Dakota” plainly and legibly enclosed in the lower half. In the center shall be the words “Corporate Seal.”

(Prior Code, § 1.08.010)

§ 11.02 CITY BOUNDARIES.

(A) *City limits.* The city shall include all that territory included in Section 12, Township 97, Range 73 of Gregory County, South Dakota; all of that territory which lies within the northeast quarter of Section 13, Township 97, Range 73 of the same county and state; all that territory included within the north ½ of the northwest quarter of Section 13, Township 97, Range 73, of the same county and state; and that territory which is known as Outlot A situated in the southeast ¼ of the northeast quarter of Section 11, Township 97, Range 73 of the same county and state, consisting of 16.69 acres. The lot is described as follows: beginning from the northeast corner of the southwest ¼ of the northeast quarter of Section 11, Township 97, Range 73 of the lot extends 883 feet west, then 823.5 feet south, 883 feet east, then 823.5 feet north, back to the point of beginning.

(Prior Code, § 1.12.010)

(B) *Additions.*

(1) Wynia Addition: Outlot C-1 and part of the NW ¼ of the NE ¼ of Section 12, Township 97 N, Range 73 W of the 5th P.M.

(2) Pleasant View Addition: A subdivision of Lot “C” located in the SE ¼ of Section 1, Township 97, Range 73 W of the 5th P.M.

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(3) Hills Second Addition:

(a) A subdivision of Lot "B," Hills First Addition and a portion of the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 13, Township 97 North, Range 73 W of the 5th P.M.

(b) All of that part of the N $\frac{1}{2}$ of the NW $\frac{1}{4}$ of Section 13, Township 97, Range 73, Gregory County, South Dakota, not already in the city limits: Starting at the SW corner of the N $\frac{1}{2}$ of the NW $\frac{1}{4}$ of Section 13, thence north along the west boundary of said quarter, 1,313 feet to the NW corner thereof; thence east along the south boundary of the right-of-way of U.S. Highway No. 18, 431.5 feet. Thence due south 121.2 feet along the west boundary of the First Addition to the town of Gregory, thence SW 459.7 feet to the west boundary of Von Seggern First Addition, thence due south 586 feet to the south line of Nepper Street, thence due east along the south line of Nepper Street 680 feet to the west boundary of Hills First Addition, thence due south along the boundary a distance of 391.45 feet to the south boundary of the N $\frac{1}{2}$ of the NW $\frac{1}{2}$ of aforesaid Section 13, thence west along the south boundary 1,534 feet to the point of beginning on the west boundary of Section 13.

(4) Parkside Acres: Lots 1 and 2 of Parkside Acres in the NE $\frac{1}{4}$ of Section 11, Township 97 N, W of the 5th P.M., Gregory County, South Dakota.

(5) Outlots C-2 and C-3: NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 12, Township 97 N, Range 73 W of the 5th P.M., Gregory County, South Dakota.
(Prior Code, § 1.12.020)

§ 11.03 WARDS.

(A) *Wards described.* The city shall be divided into 3 voting wards:

(1) Ward I shall encompass all that part of the city south of Seventh Street as extended to the eastern boundary of the city limits, but east of Main Street as extended to the southern boundary of the city.

(2) Ward II shall encompass all that part of the city north of Seventh Street as extended but east of Main Street as extended.

(3) Ward III shall encompass all that part of the city west of Main Street as extended.
(Prior Code, § 1.16.010)

(B) *Polling places.* The polling places for each of the respective wards shall be designated by the City Council and publicized at least a week before any public election.
(Prior Code, § 1.16.020)

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CHAPTER 30: CITY GOVERNMENT

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CITY COUNCIL

§ 30.01 POWER TO GOVERN.

The city shall be governed by a Mayor and 6 Alderpersons, and these men and women shall be called the Governing Body or City Council.

(Prior Code, § 2.08.010)

§ 30.02 ALDERPERSONS; ELIGIBILITY AND TENURE; DUTIES AND POWERS.

(A) *Eligibility and tenure.* Two Alderpersons shall be elected at large from each ward for a term of 2 years and until their successors are elected and qualified. There shall be 1 Alderperson elected from each ward at each annual election for the regular term. Each Alderperson shall be a resident and a qualified elector of the ward from which he or she is elected, and shall have resided in the city at least 9 months prior to his or her election.

(Prior Code, § 2.08.020)

(B) *Duties and powers.*

(1) The duties of the City Council members shall be as prescribed by the laws of the state, and other such duties as are prescribed by this code, or which may be prescribed by this code, or which may be prescribed by the City Council itself.

(2) The Council shall determine its own rules of procedure, and punish its members for disorderly conduct, and with the concurrence of 4 Alderpersons, may expel a member.

(3) The Council shall meet at regular meetings at the city hall at the hour of 7:30 p.m., on the first and third Mondays of each month. When such Mondays fall upon a legal holiday as recognized by state or federal law, the meeting shall be held at the same time and place on the following day.

(4) The Council may hold special meetings at any time upon 1-day's notice; such meetings shall be held at the city hall, and shall be called by the City Finance Officer when requested by the Mayor or 2 Alderpersons. When a special meeting is called, the City Finance Officer shall immediately contact all of the members of the Council, and the Mayor. This may be done in person orally or in writing or by telephone. The time, place and purpose of the meeting shall be notified to the Alderpersons and the Mayor by the City Finance Officer. If the City Finance Officer finds it impossible to contact any of the Council members personally, he or she or the Chief of Police shall leave a written notice of the meeting and its purpose at the residence of any such Council member.

(Prior Code, § 2.08.030)

§ 30.03 SPECIAL AND REGULAR MEETINGS.

(A) *How conducted.* Except as provided in this chapter, special meetings and regular meetings shall be conducted in the same manner, and the Council shall sit with open doors and keep a journal of its proceedings; a majority of the Alderpersons elected shall constitute a quorum if present.

(B) *Failure to attend.* It is unlawful for any Alderperson to wilfully or without reasonable cause fail to attend any regular or duly called special meeting of the Council for the purpose of preventing a quorum of the Council; and such Alderperson shall be penalized and forfeit to the city the sum of \$100 for each meeting which he or she shall for the reason fail to attend, which penalty shall be collected for the city upon the complaint of 4 Alderpersons; any court having jurisdiction.

(C) *Business transacted at special meetings.* No business shall be transacted at any special meeting except that which was mentioned in the notice thereof, but when the Mayor and all of the Alderpersons are present at a special meeting, and all of the Alderpersons concur in the vote, then the business transacted shall be valid, even though the meeting was not called as provided in this chapter, and the business transacted was different than that for which the meeting was called.
(Prior Code, § 2.08.040)

MAYOR

§ 30.20 ELIGIBILITY; TERM.

The chief executive officer of the city shall be the Mayor, who shall be elected from the city at large for a term of 2 years and until his or her successor is elected and qualified. He or she must be a qualified elector of the city and have resided therein for at least 9 months before his or her election.
(Prior Code, § 2.04.010)

§ 30.21 DUTIES AND POWERS.

(A) The Mayor of the city shall have those duties as prescribed by the laws of the state, this code and the City Council.

(B) He or she shall appoint all appointive officers of the city, but such appointments must be approved by the City Council.

(C) Except as otherwise provided by law, he or she shall have the power to remove from office an officer appointed by him or her.

(D) Within the jurisdiction of the municipality he or she shall have all the powers conferred by law upon sheriffs to suppress disorder and keep the peace.

(E) He or she shall have the power, when necessary, to call upon every male inhabitant of the city over the age of 18 years to aid in the enforcing of laws and ordinances.

(F) He or she may release any person imprisoned for violating a city ordinance or remit any fine or penalty for violation thereof.

(G) He or she shall annually and from time to time give the Council information relative to the affairs of the city and recommend for their consideration such measures as he or she deems expedient.

(H) He or she shall have the power to sign or veto any ordinance or measure passed by the City Council and the power to veto any part or item of an ordinance or resolution appropriating money. (Prior Code, § 2.04.020)

APPOINTIVE OFFICERS

§ 30.35 APPOINTMENT.

The Mayor with the approval of the Council shall appoint the following officers who shall enter upon the discharge of their duties as soon as they have duly qualified, and shall hold office until the appointment and qualification of their successors. Salaries of such officers may be fixed by resolution. (Prior Code, § 2.12.010)

§ 30.36 CITY ATTORNEY.

(A) In addition to those duties prescribed for a city attorney by state law, the City Attorney shall represent the city in all matters of city business; prepare such ordinances, notices or other papers as are incidental to the affairs of the city; advise the city officials with respect to legal affairs of the city; and represent the city in all litigation in which the city is named as a party. But it is expressly understood that in cases or matters involving special assessments, bond issues, local improvements, revision of ordinances and litigation, except in magistrate court, the City Attorney shall be entitled to reasonable compensation to be fixed by the Governing Body in addition to the City Attorney's yearly salary.

(B) In case of the absence of the City Attorney or of his or her incapacity, or in matters deemed by the Governing Body to be of great importance to the city, or matters in which the Governing Body deems the City Attorney needs assistance, a special attorney may be employed at such reasonable pay as shall be directed by the Governing Body.

(C) In addition to any reasonable compensation the City Attorney shall receive from the city for working on matters involving special assessment, bond issues, local improvements, revision of ordinances, and litigation, except in magistrate court, the City Attorney shall receive a monthly salary that is paid quarterly. This salary shall be set by City Council resolution. (Prior Code, § 2.12.020) (Ord. 108, passed - -1993)

§ 30.37 CITY FINANCE OFFICER.

(A) The City Finance Officer shall have all those duties and responsibilities as are prescribed for him or her by state law, this code and the City Council.

(B) The City Finance Officer shall have charge of figuring, billing, mailing and collecting of the city water bills. The duties of the City Finance Officer other than those concerned by the South Dakota Code and any other duties which the Mayor or Council shall impose upon him or her, or are otherwise provided for in this code.

(C) Salary shall be set by resolution and payable semimonthly.
(Prior Code, § 2.12.030)

§ 30.38 CHIEF OF POLICE.

(A) The Chief of Police shall have the general supervision of all the members of the police force, and shall see that this code and the laws of the state are enforced within the city.

(B) His or her duties shall include all those which are ordinarily undertaken by a chief of police and all those provided by this code and the laws of the state.

(C) He or she shall receive a salary set by resolution and payable semimonthly.
(Prior Code, § 2.12.040)

§ 30.39 STREET SUPERINTENDENT.

(A) It shall be the general duty of the Street Superintendent to provide the necessary care and supervision to keep the streets in a good and travelable condition.

(B) Among the other duties customarily owed by street superintendents to the city, or prescribed for him or her by this code or the laws of the state, the Street Superintendent shall see that the streets of the city are kept clean, and that the snow is removed from same as quickly as possible after a snowfall.

(C) While attending his or her duties, the Street Superintendent shall have all those powers that a city police officer might have in respect to enforcing this code or the laws of the state.

(D) He or she shall be paid a salary set by resolution and payable semimonthly.
(Prior Code, § 2.12.050)

§ 30.40 WATER SUPERINTENDENT.

(A) The Water Superintendent shall have the general supervision of the entire water and sewer system of the city, and any excavations made within the city regarding the same.

(B) The Water Superintendent shall also have all those duties ordinarily undertaken by such an officer or which are prescribed for him or her by this code or the laws of the state.

(C) He or she shall be paid a salary set by resolution and payable semimonthly.
(Prior Code, § 2.12.060)

§ 30.41 MANAGER OF CITY LIQUOR STORE.

(A) The manager of the city liquor store shall act under the direction of the Mayor and the City Council to see that the store is operated in a good businesslike manner, utilizing accounting and inventory methods approved of by the Council.

(B) The manager of the store shall from time to time and at least once each year report to the City Council of the general condition and needs of the store.

(C) He or she shall be paid a salary set by resolution and payable semimonthly.
(Prior Code, § 2.12.070)

§ 30.42 CITY SUPERINTENDENT.

(A) The City Superintendent shall act under the direction of the Mayor and the City Council charged with supervision over the Street Superintendent, the Water Superintendent, and any other appointive city officers and employees that might be placed under his or her control by resolution of the City Council, to insure that the city streets are properly maintained, cleaned, cleared of snow, drained and otherwise kept in a good and travelable condition and properly marked with signs and other devices for regulating traffic and parking; to insure that the city water system, including wells, mains and storage tanks, is kept maintained and operational; to insure that the city sewer system, lagoon and waste-disposal facilities are kept in a state of repair and entirely operational; to insure that city-owned property, grounds and buildings are properly maintained and that city recreational facilities including the park, swimming pools and ball fields are kept in an attractive and serviceable condition; to insure that the city-owned equipment, tools, motor vehicles, mowers, tractors, trucks and heavy equipment are kept in a state of repair and at all times operational; and further to insure that the city is kept free of waste, litter, debris, junk, wreckage, old car bodies, unauthorized structures and outbuildings, unkept foliage, shrubbery and trees, and in general to see the elimination of nuisance and the maintenance of an orderly, neat and attractive city proper within the municipal limits.

(B) While acting in the conduct of his or her duties, the City Superintendent shall have the power and authority of a city police officer in respect to enforcing this code and the laws of the state.

(C) The City Superintendent shall be appointed by the Mayor with the approval of the City Council to serve at the pleasure of the Mayor subject to his or her removal upon 30-days' notice, and shall be paid a salary or wage commensurate with his or her qualifications and capabilities and in keeping with the existing city pay scale, to be determined at the time of hiring by resolution of the City Council, salary to be payable semimonthly.

(Prior Code, § 2.12.080)

§ 30.43 AIRPORT MANAGER.

(A) There shall be the Office of Airport Manager, who shall be appointed by the Mayor and approved by the Council.

(B) The duties of the Airport Manager, acting under the advisement of the City Council and the Mayor, are to supervise and manage the airport, making complaints upon violation of the rules set forth in Chapter 52 of this code, and he or she shall be in attendance at said airport at reasonable hours.

(C) The Airport Manager's salary shall be set by Council resolution.

(Prior Code, § 2.12.090) (Ord. 109, passed - -1993)

§ 30.44 OTHER APPOINTIVE OFFICERS AND EMPLOYEES.

The Governing Board shall by resolution appoint such other city officers or employees as may be necessary and at such salary or wage as may be deemed appropriate.

(Prior Code, § 2.12.100)

CHAPTER 31: CITY ORGANIZATIONS

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CIVIL DEFENSE COUNCIL**§ 31.01 MEMBERS.**

In addition to their regular duties as Council members, the City Council members shall also act as the members of the Civil Defense Council for the city.

(Prior Code, § 2.32.010)

§ 31.02 DUTIES.

It shall be the duty of the Civil Defense Council to make arrangements for civilian defense within the city in the event of war or national emergency. The Council shall have the power to make such rules and regulations governing the conduct of the residents of the city as it may deem necessary or expedient with regard to bomb shelters, fires, radiation, blackouts, radio contacts or releases, or other precautionary or safety measures recommended by federal and state civil defense officials.

(Prior Code, § 2.32.020)

§ 31.03 AUTHORITY TO APPOINT COMMITTEES.

The Civil Defense Council shall have the authority to appoint committees of residents for the purpose of carrying the duties and authority of the Defense Council.

(Prior Code, § 2.32.030)

§ 31.04 VIOLATION OF REGULATIONS UNLAWFUL.

It is unlawful for any person to disregard or violate any regulation promulgated by the Defense Council or its duly authorized committees.

(Prior Code, § 2.32.040) Penalty, see § 10.99

PLANNING AND ZONING COMMISSION

§ 31.20 ESTABLISHMENT; PURPOSE.

There is created a City Planning and Zoning Commission established for the purpose of developing and proposing a comprehensive plan for the growth, development and the use of land within the city and an extraterritorial limit of ½ mile north and west, and an area south and east to encompass the city lagoon, airport and golf course.

(Prior Code, § 2.28.010)

§ 31.21 MEMBERSHIP; TERMS.

The Planning and Zoning Commission shall consist of vice members appointed by the Mayor and confirmed by the City Council. The term of each of the members shall be for 5 years, except that when the Planning and Zoning Commission is first appointed, approximately ½ of the members shall be appointed for 3 years and the balance of the members shall be appointed for 5 years. Administrative officials may be appointed as ex-officio members of the Commission.

(Prior Code, § 2.28.020)

§ 31.22 FUNCTION, DUTIES AND POWERS.

It shall be the function and duty of the Planning and Zoning Commission to propose a comprehensive plan for the physical development of the city and the surrounding area of (see § 31.20) miles in accordance with SDCL Ch. 11-4 and 11-6. The Planning Commission shall have all the powers granted to planning and zoning commissions under SDCL Ch. 11-4 and 11-6, unless otherwise restricted by the City Council.

(Prior Code, § 2.28.030)

§ 31.23 APPROPRIATIONS FROM CITY COUNCIL.

The City Council may appropriate such sums of money to a planning and zoning fund as may be deemed necessary from time to time by the City Council.

(Prior Code, § 2.28.040)

BOARD OF HEALTH**§ 31.35 MEMBERSHIP; TERMS.**

The Board of Health shall consist of 6 members appointed by the Mayor and approved by the City Council, who shall serve for 2 years, and until their successors are appointed and qualified.
(Prior Code, § 2.24.010) (Am. Ord. 139, passed 8-19-1996)

§ 31.36 POWERS.

The Board of Health shall have the power to do all things necessary for the prevention of the spread of diseases which they should deem to be detrimental to the community upon approval by the City Council. The Board of Health shall have the power to call attention to and help eliminate all public nuisance violations found in Chapter 95 of this code of ordinances.
(Prior Code, § 2.24.020) (Am. Ord. 139, passed 8-19-1996)

§ 31.37 OPERATION OF BOARD.

The Board shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. At least 3 members shall be present to make a quorum for the transaction of business.
(Prior Code, § 2.24.030) (Am. Ord. 139, passed 8-19-1996)

FIRE DEPARTMENT**§ 31.50 FIRE CHIEF.**

(A) *Nomination of Fire Chief.* As soon as it is practical after the organization of the City Council each May, the Fire Department members of the city shall nominate a Fire Chief, who, on being confirmed by the City Council, shall hold such office until the election and confirmation of his or her successor.
(Prior Code, § 2.20.010)

(B) *Duties of Fire Chief.*

(1) The Fire Chief shall, in all cases of fire, have charge of all the members of the Fire Department, and of all persons present at the fire, and shall take the proper means of extinguishing the fires, protecting the property endangered as a result of fire. It shall also be the Fire Chief's duty to help

secure the observance of all city ordinances and regulations respecting fires. After the fire trucks have been withdrawn from the fire, he or she shall see that all precautions reasonably necessary to keep the fire from flaring up again are taken.

(2) It shall be the duty of the Fire Chief or a representative of him or her to report to the Mayor or City Council, the condition of the fire engines and other Fire Department equipment, and to make such recommendations for additional alterations and improvements of the same as he or she may deem expedient at least once a year.

(3) It shall be the duty of the Fire Chief, along with the City Council and the other Fire Department members, to promote a yearly program to eliminate any fire hazards within the city, and the Fire Chief himself or herself may notify the owner or occupant of any building which he or she deems unsafe and a fire hazard of the conditions and order him or her to repair the same or remove it from the city within a week from the time of receiving the notice; and if the owner or occupant shall refuse to comply with the notice, then the Fire Chief shall report the same to the City Council, and if the order be approved by the Council, he or she shall proceed to carry out the same to be done and the expense thereof shall be paid by the person or persons so failing to comply.

(Prior Code, § 2.20.020)

(C) *Fire Chief subject to direction of Council.* The Fire Chief shall at all times be subject to the control and direction of the City Council in matters pertaining to the Fire Department.

(Prior Code, § 2.20.030)

§ 31.51 DEPARTMENT MEMBERS; DUTIES.

It shall be the duty of all members of the City Fire Department to keep the Fire Department equipment in a serviceable and clean condition and to go with due haste to all fires and remain there until dismissed by order of the Fire Chief.

(Prior Code, § 2.20.040)

§ 31.52 ASSISTANT CHIEFS.

(A) The Fire Department members may elect an Assistant Fire Chief who, upon being approved by the City Council, shall have the same power and perform the same duties as the Fire Chief, in case of disability or temporary absence of the Fire Chief.

(B) The Second Assistant Chief shall, at the discretion of the Chief, aid him or her in the discharge of his or her duties; in the event of the absence of the First Assistant Chief, the Second Assistant Chief shall perform the duties of the First Assistant Chief, and in the absence of both the First Assistant and the Chief, the Second Assistant Chief shall perform the duties set out for the office of Chief.

(C) The department Captain shall, at the discretion of the Chief, aid him or her in the discharge of his or her duties. The Department Captain shall perform the duties set out for the office of Chief in the absence of the Second and First Assistant Chiefs.

(Prior Code, § 2.20.050) (Ord. 78, passed - -1986)

§ 31.53 UNLAWFUL TO RESIST OR HINDER OFFICERS.

(A) The Fire Chief and Assistant Fire Chief shall, at and during the time of all fires, have the powers of the Chief of Police, and any person who shall resist any such officer in the lawful discharge of his or her duty at such time shall be subject to like penalty as for resisting a peace officer.

(B) It is unlawful for any person to wilfully offer any hindrance to any officer or firefighter in the performance of his or her duty at a fire, or injure wilfully any fire engine or fire-fighting apparatus while going to or at a fire, or remove any parts of the apparatus, or shall give any false alarms or shall willingly drive any vehicle over any hose or other fire equipment belonging to the Fire Department, or to wilfully disobey any command of the Fire Chief relating to the fighting of any fire.

(Prior Code, § 2.20.060) (Ord. 78, passed - -1986) Penalty, see § 10.99

§ 31.54 FORCE OF DEPARTMENT REGULATIONS.

All rules and regulations concerning the Fire Department, when adopted by the City Council, shall have the same force and effect as ordinances.

(Prior Code, § 2.20.070)

CHAPTER 32: GENERAL POLICIES; FINANCE

Section

Prisoners

- 32.01 Conversations with prisoners
- 32.02 Imprisonment and work to pay off fine; refusal to follow order

Retail Sales and Service Tax and Use Tax

- 32.20 Purpose
- 32.21 Effective date and enactment of tax
- 32.22 Use tax
- 32.23 Collection
- 32.24 Interpretation

Fiscal Provisions Generally

- 32.40 Capital improvement planning

Property Tax

- 32.55 Purpose
- 32.56 Taxable values

Municipal Gross Receipts Tax

- 32.70 Purpose
- 32.71 Effective date and enactment of tax
- 32.72 Collection
- 32.73 Interpretation
- 32.74 Use of revenue
- 32.75 Separability

- 32.99 Penalty

PRISONERS**§ 32.01 CONVERSATIONS WITH PRISONERS.**

(A) It is unlawful for any person to loiter, loaf or spend his or her time, unless in some necessary occupation, in the immediate vicinity of the city jail.

(B) It is unlawful for any person to converse with any person or persons while confined in the city jail without first having obtained the permission of the Chief of Police or the officer in charge, or to furnish any prisoner with any material thing whatsoever, provided that any person confined in the city jail shall have the right to have an attorney-at-law called for them, upon the request of the person confined, at any reasonable time. Any such attorney shall be permitted by the Chief of Police or the officer in charge, to have free communication with the prisoner calling him or her.

(C) Any prisoner confined in the city jail at any reasonable time may have a resident clergyperson or his or her spiritual advisor called.

(D) No conversation shall be had between any prisoner and his or her friends or relatives without the consent of the officer in charge and in his or her presence.
(Prior Code, § 1.24.010) Penalty, see § 10.99

§ 32.02 IMPRISONMENT AND WORK TO PAY OFF FINE; REFUSAL TO FOLLOW ORDER.

(A) Every person who has been arrested for the violation of this code and the person charged having been found guilty thereof and being ordered by the court of conviction to pay a fine, may be committed to the county or city jail until such fine shall be fully paid; or may, upon the order of the court before whom the conviction was had, be required to work for the city at such labor as his or her strength will permit, for not to exceed 10 working hours each day, and for such work the person so working shall be allowed \$2 for each day's work on the account of his or her fine, exclusive of his or her board, until such fine and costs shall be fully paid.

(B) Any person who shall refuse to follow the order of the court which convicted him or her to work for the city under the conditions of division (A) of this section shall be held to be in contempt of the court and to be subject to further fines and imprisonment.
(Prior Code, § 1.24.020)

RETAIL SALES AND SERVICE TAX AND USE TAX**§ 32.20 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. (Prior Code, § 3.08.010) (Ord. 79, passed - -1986; Am. Ord. 172, passed 8-4-2003; Am. Ord. 183, passed 8-1-2005)

§ 32.21 EFFECTIVE DATE AND ENACTMENT OF TAX.

From and after the first day of January, 2004, there is 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 South Dakota Retail Occupational Sales and Service Tax, SDCL Ch. 10-45, and all acts amendatory thereto. (Prior Code, § 3.08.020) (Ord. 79, passed - -1986; Am. Ord. 172, passed 8-4-2003; Am. Ord. 183, passed 8-1-2005) Penalty, see § 32.99

§ 32.22 USE TAX.

In addition, there is imposed an excise tax on the privilege of use, storage and consumption within the jurisdiction of the city of tangible personal property of services purchased from and after the first day of January, 2004, at the same rate as the municipal sales and service tax upon all transactions or use, storage and consumption which are subject to the South Dakota Use Tax Act, SDCL Ch. 10-46, and acts amendatory thereto. (Prior Code, § 3.08.030) (Ord. 79, passed - -1986; Am. Ord. 172, passed 8-4-2003; Am. Ord. 183, passed 8-1-2005) Penalty, see § 32.99

§ 32.23 COLLECTION.

Such tax is levied pursuant to authorization granted by SDCL Ch. 10-52 and acts amendatory thereto, and shall be collected by the South Dakota Department of Revenue and Regulation in accordance with the same rules and regulations applicable to the state sales tax and under such additional rules and regulations as the Secretary of Revenue and Regulation of the State of South Dakota shall lawfully prescribe. (Prior Code, § 3.08.040) (Ord. 79, passed - -1986; Am. Ord. 172, passed 8-4-2003; Am. Ord. 183, passed 8-1-2005) Penalty, see § 32.99

§ 32.24 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 South Dakota Retail Occupational Sales and Service Act, SDCL Ch. 10-45, and acts amendatory thereto and the South Dakota 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.

(Prior Code, § 3.08.050) (Ord. 79, passed - -1986; Am. Ord. 80, passed - -1986; Am. Ord. 172, passed 8-4-2003; Am. Ord. 183, passed 8-1-2005)

FISCAL PROVISIONS GENERALLY**§ 32.40 CAPITAL IMPROVEMENT PLANNING.**

The city shall annually update a priority schedule of necessary municipal capital improvements. These improvements shall be projected for a period of 5 years and so prepared as to show the general description, justification and estimated cost of each individual capital improvement. The priority schedule shall also include a proposed method of financing and the year in which each project is to be undertaken. (Prior Code, § 3.04.010) (Ord. 62, passed - -1982)

PROPERTY TAX**§ 32.55 PURPOSE.**

The purpose of this subchapter is to promote economic development within the city area. SDCL § 10-6-35.2 allows for a property tax benefit on new construction of structures or additions which have an assessed value of \$30,000 or more. This subchapter will grant a special tax classification to all new industrial or commercial structures or structure additions which have an assessed value of \$30,000 or more. In order to qualify for the special tax classification; such structures must be located within 3 miles of the city's corporate limits or within the city limits itself.

(Prior Code, § 3.06.010) (Ord. 137, passed 2-19-1996)

§ 32.56 TAXABLE VALUES.

(A) Pursuant to § 32.55, the following formulas for taxable values are:

(1) Zero percent of the total property value for the first year following construction on such property;

(2) For the second year following construction, not more than 20% of the usual taxable value shall be used for tax purposes on the property;

(3) For the third year following construction, not more than 40% of the usual taxable value shall be used for tax purposes on the property;

(4) For the fourth year following construction, not more than 60% of the usual taxable value shall be used for tax purposes on the property; and

(5) For the fifth year following construction, not more than 80% of the usual taxable value shall be used for tax purposes on the property.

(B) These amounts are subject to change based on any changes made to SDCL § 10-6-35.2. (Prior Code, § 3.06.020) (Ord. 137, passed 2-19-1996)

MUNICIPAL GROSS RECEIPTS TAX

§ 32.70 PURPOSE.

The purpose of this subchapter is to provide additional needed revenue for the Municipality of Gregory, Gregory County, South Dakota, by imposing a municipal gross receipts tax pursuant to the powers granted to the municipality by SDCL Ch. 10-52A, and acts amendatory thereto. (Ord. 197, passed 2-5-2007)

§ 32.71 EFFECTIVE DATE AND ENACTMENT OF TAX.

From and after the first day of July 2007, there is hereby imposed a municipal gross receipts tax of 1% upon the gross receipts from the sale of leases or rentals of hotel, motel, campsites or other lodging accommodations within the municipality for periods of less than 28 consecutive days, the sale of alcoholic beverages as defined by SDCL § 35-1-1, establishments where the public is invited to eat, dine or purchase carry out prepared food for immediate consumption, and ticket sales or admissions to places

of amusement, athletic and cultural events. The tax applies to the gross receipts of all persons engaged in business within the jurisdiction of Gregory, Gregory County, South Dakota, who are subject to the South Dakota Retail Occupation Sales and Service Tax, SDCL Ch. 10-45, and acts amendatory thereto. (Ord. 197, passed 2-5-2007)

§ 32.72 COLLECTION.

The tax is levied pursuant to authorization granted by SDCL Ch. 10-52A and acts amendatory thereto, and shall be collected by South Dakota Department of Revenue and Regulation in accordance with the same rules and regulations applicable to the State Sales Tax and under such additional rules and regulations as the Secretary of Revenue of the State of South Dakota shall lawfully prescribe. (Ord. 197, passed 2-5-2007)

§ 32.73 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 South Dakota Retail Occupational Sales and Service Act, SDCL Ch. 10-45 and acts amendatory thereto, and that this shall be considered a similar tax except for the rate thereof to that tax. (Ord. 197, passed 2-5-2007)

§ 32.74 USE OF REVENUE.

Any revenues received under this subchapter may be used only for the purpose of land acquisition, architectural fees, construction costs, payment for civic center, auditoriums or athletic facility buildings, including the maintenance, staffing and operations of such facilities, and the promotion and advertising of the municipality, its facilities, attractions and activities. (Ord. 197, passed 2-5-2007)

§ 32.75 SEPARABILITY.

If any provision of this section is declared unconstitutional or application thereof to any person or circumstances held invalid the constitutionality of the remainder of this section and applicability thereof to other persons or circumstances shall not be affected thereby. (Ord. 197, passed 2-5-2007)

§ 32.99 PENALTY.

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

(B) Any person failing or refusing to make reports or payments prescribed by §§ 32.20 *et seq.* and the rules and regulations relating to the ascertainment and collection of the tax levied in §§ 32.20 *et seq.* 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 authorized for the collection of these excise taxes by the Department of Revenue and Regulation.

(Prior Code, § 3.08.060) (Ord. 79, passed - -1986; Am. Ord. 172, passed 8-4-2003; Am. Ord. 183, passed 8-1-2005)

(C) Any person failing or refusing to make reports or payments prescribed by §§ 32.70 through 32.75 and the rules and regulations relating to the ascertainment and collection of the tax herein levied 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, are hereby authorized for the collection of these excise taxes by the Department of Revenue.

(Ord. 197, passed 2-5-2007)

TITLE V: PUBLIC WORKS

Chapter

- 50. WATER**
- 51. SEWERS**
- 52. AIRPORT**

CHAPTER 50: WATER

Section

- 50.01 Meter required; type; repair
- 50.02 Security deposit required
- 50.03 Connection to water mains
- 50.04 Water lines; excavation, construction and repair
- 50.05 City water; prohibited uses
- 50.06 Water rates
- 50.07 Meter readings
- 50.08 Payment of bills; discontinuance of service; appeal
- 50.09 New tenants; when property owner liable for water bills
- 50.10 When re-establishing service unlawful
- 50.11 Water service outside city limits
- 50.12 Use of water mains for heating and cooling; when permitted; fee
- 50.13 Fees; disconnect and re-connect fees

§ 50.01 METER REQUIRED; TYPE; REPAIR.

(A) No water shall be sold or distributed unless the same is measured by a meter which shall be furnished and kept in repair by the city. Upon discovery of an unmetered water user, the user shall be billed at a rate of \$25 per month until the water usage can be metered. The unmetered water usage rate shall be effective 5 days after receiving written notification from the city and will continue in effect until a water meter is in place.

(B) The meter shall be of a kind which is approved by the City Water Commissioner, and shall be located in a reasonably accessible place.

(C) In the event that any meter used to measure water sold by the city becomes out of repair, receipt of notice from the City Finance Officer shall act as a command to the user to repair same within 10 days or the water supplied to such user shall be shut-off until such repairs are made; and, in case it should become necessary for the city to so shut-off a user's water, the user shall pay a service charge of \$1 for turning off the water and \$1 for turning the water back on, before service shall be restored to the user. (Prior Code, § 13.04.010) (Ord. 89, passed - -1989)

§ 50.02 SECURITY DEPOSIT REQUIRED.

Water users shall pay to the city a deposit of \$25 as security for the payment for the use of water, and shall not be entitled to the use of city water until the deposit is made; that the deposit or the portion thereof as exceeds the water bill then owed, shall be refunded to said users at such time as the use of water is discontinued.

(Prior Code, § 13.04.020) (Ord. 75, passed - -1985)

§ 50.03 CONNECTION TO WATER MAINS.

(A) Whenever the property of users of water within the city borders upon a street wherein are located water mains, the users shall make individual connections with the mains, and the city reserves the right to refuse to furnish water to any user so located who fails to make an individual connection.

(B) No person shall make any connection to any of the water mains of the city without first procuring the permission of the City Water Commissioner, and such connection, if permitted, shall be made under the supervision of the Commissioner.

(Prior Code, § 13.04.030)

§ 50.04 WATER LINES; EXCAVATION, CONSTRUCTION AND REPAIR.

(A) All excavation pertaining to water lines in any of the streets of the city shall be under the supervision of the City Water Commissioner.

(B) The construction of all water lines in any of the streets of the city or any water line connecting to the city mains shall be of good workmanship and construction utilizing reasonable durable material, and shall be subject to inspection at all reasonable times by the City Water Commissioner.

(C) It shall be the duty of all water users to keep in repair lines leading from the mains, and all users shall install and maintain upon all lines leading from the mains shut-off valves situated at a suitable place. This place shall be prescribed by the City Water Commissioner.

(D) In the event a leak is discovered in any of the lines leading from the mains of the city, it shall be the duty of the user of the water carried by the lines to repair the same with reasonable dispatch upon being notified to do so by the City Auditor or Water Commissioner, and in event of failure to so repair following the notice, water service into the line shall be discontinued.

(Prior Code, § 13.04.040)

(E) The city shall reserve the right to make the necessary repairs to a water line leading from the city's water main to a user if a water leak should occur in the water line running to the user's residence and the water user cannot or refuses to fix the water line leak. The total cost incurred by the city in

fixing the water line shall be billed to the owner of the property where the water line was repaired. If payment is not received, the total cost of the water line repairs shall be assessed on the owner's property taxes due for the following year.

(Ord. 189, passed 3-6-2006)

§ 50.05 CITY WATER; PROHIBITED USES.

City water shall not be used for any extensive siphoning or power purpose.
(Prior Code, § 13.04.050)

§ 50.06 WATER RATES.

(A) Rates for the use of water for all users located within the corporate limits of the city are as follows for a 1-month length of billing:

1,000 gallons	\$12
2,000 gallons	\$15
3,000 gallons	\$18
4,000 gallons	\$21
5,000 gallons	\$24
6,000 gallons	\$27
After 6,000 gallons	\$2.50 per 1,000 gallons

(B) Rates for the use of the water system for all users located outside of the corporate limits of the city shall be 50% higher.

(C) Each non-metered residential unit of an apartment building shall be charged a flat fee of \$10 per month in addition to the regular water usage that is metered through a master meter.

(Prior Code, § 13.04.060) (Ord. 69, passed - -1983; Am. Ord. 101, passed - -1992; Am. Ord. 185, passed 9-19-2005)

§ 50.07 METER READINGS.

(A) The city shall be responsible for the reading of the water meters, figuring total gallons used and the sending of each water consumer a bill for water used. Water meters are to be read once every 2 months.

(B) When, for any reason, a meter is not read at the regular time, the water user shall be charged at the date of the last regular meter reading.

(Prior Code, § 13.04.070) (Ord. 73, passed - -1984)

§ 50.08 PAYMENT OF BILLS; DISCONTINUANCE OF SERVICE; APPEAL.

(A) All water bills shall become due the first of the month after the reading of the water meter, and if not paid on or before the fifteenth of the month, the discount of 10% will be lost and the amount will be added to the bill. A service charge of 1½ % per month will be added to any unpaid balance due.

(B) If payment plus the forfeiture amount of the discount is not received by the twentieth of the month, the following will occur: the water consumer will receive a written notice that service will be discontinued 30 days from the date of the dated notice unless:

(1) The bill is paid in full; or

(2) The consumer makes a partial payment of at least 25% of the bill and enters into a written agreement to pay the balance in 3-months' time.

(C) If the water consumer disputes the bill, he or she may file a written complaint with the City Council, service will be continued until the appeal is heard. Service will be continued for a single 30-day period upon receipt of a physician's certificate or notice from a public health or social services official that disconnection of utility service will aggravate an existing medical emergency.

(Prior Code, § 13.04.080) (Ord. 73, passed - -1984)

§ 50.09 NEW TENANTS; WHEN PROPERTY OWNER LIABLE FOR WATER BILLS.

The owner of property which is served by city water shall notify the City Finance Officer of all new tenants, and, in the event of failure to do so, the property owner shall be liable for the water furnished to the tenants. If the water bill shall become over 30-days' delinquent for the tenant's usage then the property owner shall become liable for the water supplied to his or her tenants and further water bills will be sent to the property owner for payment.

(Prior Code, § 13.04.090) (Ord. 74B, passed - -1985)

§ 50.10 WHEN RE-ESTABLISHING SERVICE UNLAWFUL.

When service of water has been shut-off or discontinued to any user for failure to furnish or repair meters, repair leaks in pipes, furnish deposit, pay water bills, pay penalties or service charges provided for in this chapter, it shall be unlawful for any person without the permission of the City Auditor or Water Commissioner to turn the water back on or re-establish such service in any manner.

(Prior Code, § 13.04.100) Penalty, see § 10.99

§ 50.11 WATER SERVICE OUTSIDE CITY LIMITS.

(A) There shall be no water services provided from the city water mains to areas outside of the city limits unless permission is received first from the City Council.

(B) All connections shall be made directly and individually to the city main and metered separately. The water meter shall be placed in a suitable place under the direction of the City Water Superintendent. Each water line connecting to the city water main shall have a shut-off valve located at a suitable place prescribed by the City Water Superintendent.

(Prior Code, § 13.04.110) (Ord. 99, passed - -1992)

(C) There shall be a \$100 hook-up fee to any area outside of city limits supplied or connected to the city's water main service.

(Am. Ord. 135, passed - -; Am. Ord. 147, passed 10-20-1997)

§ 50.12 USE OF WATER MAINS FOR HEATING AND COOLING; WHEN PERMITTED; FEE.

(A) Only buildings that are used for commercial purposes are eligible to use the city's water mains as a heating and cooling source.

(B) There shall be no connections to the city water main for heating or cooling purposes without first obtaining permission from the City Council. All plans for connecting to the city water mains for heating and cooling have to be shown to the City Council and approved.

(C) The water user shall be held liable for any contamination or damage to the city's water sources and mains arising from the use of a heating or cooling system using the city's water mains.

(D) The water user shall remit to the city a fee of \$.08 per square foot per year for the use of the city's water mains.

(Prior Code, § 13.04.120) (Ord. 100, passed 6-1-1992)

(E) Any commercial entity owning a building that obtains approval for the use of the city's water mains as a heating and cooling source shall execute a hold harmless agreement that shall be binding upon the owner and any successors, heirs, administrators, or assignees. The hold harmless agreement shall state that the owner of the commercial building shall be solely responsible and totally liable for any contamination or damage to the city's water sources and mains arising from the use of the heating and cooling system.

Gregory - Public Works

(F) The commercial use entity owning a building who obtains approval for the use of the city's water mains as a heating and cooling system shall insure the quality of the water returning to the city's main by doing the following:

(1) Install taps on the influent and effluent lines of the heating and cooling system, the purpose of the taps shall be for the taking of water samples before the water has been discharged into the city's mains.

(2) The expense and costs involved in placing, installing, and maintaining the taps described shall be borne by the commercial entity owning the building using the city's water main for heating and cooling purposes.

(3) (a) Any commercial entity owning a building that uses the city's water main for heating or cooling purposes agrees to install the above mentioned taps and hereby consents to city inspectors obtaining water samples, both influent and effluent, from each building site for testing as follows:

1. Total Coliform monthly;
2. Lead 3 times per year (June, July, August);
3. Copper 3 times per year (June, July, August); and
4. Volatile organic chemicals (VOC) annually.

(b) The city shall take a sample of the water from the influent and effluent taps as set above and send the same to an appropriate laboratory for analysis to determine if there are any contaminants in the water caused by circulation through the heating and cooling system. Additionally, the laboratory costs for analyzing the water samples for contaminants as described above, shall be borne by the commercial entity owning the building that is using the city's water main for heating and cooling.

(4) The city shall take any other samples of the water from the influent and effluent taps as they deem necessary to insure the quality of the drinking water. The cost of these tests shall be at the expense of the city.

(G) If any contaminants or damage to the city's water sources or mains arises from the use of the heating or cooling systems, the city may disconnect the city's water mains from the cooling and heating system and prohibit further use by the commercial building of the water mains for heating and cooling.

(H) The provisions of this section shall apply to all users of the city's water main for heating and cooling, including those users connected to the city's water main for heating and cooling purposes prior to the adoption of this section.

(I) Any commercial entity that obtains permission from the city to use the water main for heating or cooling purposes agrees to hold the city harmless from any injuries, damages, or interruptions of business that might occur if it is necessary for the city to shut-off the water service to the commercial building for purposes of maintenance or repair upon water lines.

(J) Any commercial entity that uses the city's water main for heating and cooling purposes and does not comply with the above regulations for testing shall be in violation and as such, shall be guilty of a Class II misdemeanor each day such violation is committed, or permitted to continue, and shall constitute a separate offense and shall be punishable with a \$100 fine for each day.

(K) The use of the city's water main for heating and cooling purposes shall be available to all commercial building users until the city's water main cannot support such a use.
(Ord. 190, passed 3-20-2006)

§ 50.13 FEES; DISCONNECT AND RE-CONNECT FEES.

When the owner of property which is served by city water wants the water service shut-off to that property due to a prolonged absence; the property owner will have a choice of either paying the minimum charge for each billing period or paying a \$10 disconnect fee and a \$10 reconnect fee when service is restored.

(Ord. 131, passed - -)

CHAPTER 51: SEWERS

Section

- 51.01 Connection to city sewer
- 51.02 Dumping material into sewers
- 51.03 Cesspool construction
- 51.04 Total cost of operation and maintenance; generation of revenue
- 51.05 User's wastewater contribution percentage; determination
- 51.06 Surcharge system for users with BOD and TSS; determination
- 51.07 User's wastewater service charge; determination
- 51.08 Payment of service charge and penalties
- 51.09 Review of service charge
- 51.10 Prohibited discharges
- 51.11 Clear water connections prohibited
- 51.12 New sewers and connections; proper design
- 51.13 Rates

§ 51.01 CONNECTION TO CITY SEWER.

(A) (1) The City Water Commissioner shall have general supervision of all connections made to the city sewer, and the excavations so related.

(2) All connections made with the city sewer must be done in a careful and skillful manner, utilizing materials and workmanship which meets the approval of the City Water Commissioner.
(Prior Code, § 13.08.010)

(B) There shall be a \$100 hook-up fee to any area outside of the city limits, connected to the city's sewer main service.
(Ord. 136, passed - -; Am. Ord. 148, passed 10-20-1997)

(C) All abandoned or open connections to the city's sanitary sewer system must be covered or plugged, to the approval of the City Water Superintendent. The property owner will be assessed the cost of digging up the abandoned or open connection and properly closing the connection if left open.
(Ord. 194, passed 9-5-2006)

§ 51.02 DUMPING MATERIAL INTO SEWERS.

It is unlawful for any person to wilfully dump any coarse garbage or waste material into the sewers if such garbage and material would have a tendency to disrupt the flow in said sewer.

(Prior Code, § 13.08.020) Penalty, see § 10.99

§ 51.03 CESSPOOL CONSTRUCTION.

It is unlawful for any person, persons or corporation to build or construct any cesspool either on private or public ground within the corporate limits of the city unless the same is constructed and built so as to keep water and the contents of the same from soaking into the ground, and is built of good concrete or other material equally as good.

(Prior Code, § 13.08.030) Penalty, see § 10.99

§ 51.04 TOTAL COST OF OPERATION AND MAINTENANCE; GENERATION OF REVENUE.

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

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

(Prior Code, § 13.08.040)

§ 51.05 USER'S WASTEWATER CONTRIBUTION PERCENTAGE; DETERMINATION.

(A) The city, or its city engineer, shall determine each user's average daily volume of wastewater, which has been discharged to the wastewater system, which shall then be divided by the average daily volume of all wastewater discharged to the wastewater system, to determine each user's volume contribution percentage. The amount used is the total average contribution percentage. The amount used as the total average daily volume of wastewater shall exclude infiltration and inflow. The city, or its city engineer, shall determine each user's average daily poundage of 5-day, 20° Centigrade biochemical

oxygen demand which has been discharged to the wastewater system, which shall then be divided by the average daily poundage of all 5-day, 20° Centigrade biochemical oxygen demand discharged to the wastewater system to determine each user's biochemical oxygen demand contribution percentage.

(B) The city, or its city engineer, shall determine each user's average suspended solids poundage which has been discharged to the wastewater, to determine the user's suspended solids contribution percentage. Each user's volume contribution percentage, biochemical oxygen demand contribution percentage and suspended solids contribution percentage shall be multiplied by the annual operation and maintenance costs for wastewater treatment of the total volume flow, of the total 5-day, 20° Centigrade biochemical oxygen demand and of the total suspended solids, respectively.

(Prior Code, § 13.08.050)

§ 51.06 SURCHARGE SYSTEM FOR USERS WITH BOD AND TSS; DETERMINATION.

The city, or its city engineer, will determine the average suspended solids (TSS), and biochemical oxygen demand (BOD) daily loadings for the average residential user. The city, or its city engineer, will assess a surcharge rate for all nonresidential users discharging wastes with BOD and TSS strengths greater than the average residential user. Such users will be assessed a surcharge, sufficient to cover the cost of treating such users above-normal-strength wastes. Normal-strength wastes are considered to be 200 ppm BOD and 250 ppm TSS.

(Prior Code, § 13.08.060)

§ 51.07 USER'S WASTEWATER SERVICE CHARGE; DETERMINATION.

Each nonresidential user's wastewater treatment cost contributions as determined in §§ 51.05 and 51.06 shall be added together to determine each user's annual wastewater service charge. Residential users may be considered to be 1 class of user and an equitable service charge may be determined for each such user based upon an estimate of the total wastewater contribution of this class of user. The Governing Body may classify industrial, commercial and other nonresidential establishments as a residential user, provided that the wastes from these establishments are equivalent to the wastes from the average residential user with respect to volume, suspended solids, and 5-day, 20° Centigrade biochemical oxygen demand. Each user's wastewater treatment cost contribution will be assessed in accordance with the rate schedule adopted as part of this chapter.

(Prior Code, § 13.08.070)

§ 51.08 PAYMENT OF SERVICE CHARGE AND PENALTIES.

The city shall submit an annual statement to the user for the user's annual wastewater service charge or 1/12 of the user's annual wastewater service charge may be included with the monthly water and/or wastewater utility billing. The city shall add a penalty of 10% per month if the payment is not received by the city within 15 days. Should any user fail to pay the user wastewater service charge and penalty within 3 months of the due date, the city may stop the wastewater service to the property.
(Prior Code, § 13.08.080)

§ 51.09 REVIEW OF SERVICE CHARGE.

The city shall review the total annual cost of operation and maintenance, as well as each user's wastewater contribution percentage, on an annual basis, and will revise the system as necessary to assure equity of the service charge system established in this chapter, and to assure that sufficient funds are obtained to adequately operate and maintain the wastewater treatment works. If a significant user, such as an industry, has completed in-plant modifications which would change that user's wastewater contribution percentage, the user can present at a regularly scheduled meeting of the Governing Body such factual information, and the city shall then determine if the user's wastewater contribution percentage is to be changed. The city shall notify the user of its findings as soon as possible.
(Prior Code, § 13.08.090)

§ 51.10 PROHIBITED DISCHARGES.

The discharge of any waters containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitutes a hazard to humans or animals, creates a public nuisance, or creates any hazard in the receiving waters of the wastewater treatment plant, is prohibited.
(Prior Code, § 13.08.100)

§ 51.11 CLEAR WATER CONNECTIONS PROHIBITED.

No person shall make connection of roof downspouts, exterior foundation drains, areaway drains or other sources of surface runoff or ground water to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.
(Prior Code, § 13.08.110)

§ 51.12 NEW SEWERS AND CONNECTIONS; PROPER DESIGN.

The size, slope, alignment, materials of construction of sanitary sewers and sewer connections, and the methods to be used in excavations, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city and the state. In the absence of code provision or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply.

(Prior Code, § 13.08.120)

§ 51.13 RATES.

(A) Rates for the use of the sewer system for all users located within the corporate limits of the city are as follows for a 1-month length of billing:

1,000 gallons	\$8
2,000 gallons	\$10
3,000 gallons	\$12
4,000 gallons	\$14
5,000 gallons and above	\$17

(B) Rates for the use of the sewer system for all users located outside of the corporate limits of the city shall be 50% higher.

(Ord. 160, passed 7-2-2001)

CHAPTER 52: AIRPORT

Section

52.01 Air traffic and ground taxi pattern for aircraft

52.02 Buildings and hangars

§ 52.01 AIR TRAFFIC AND GROUND TAXI PATTERN FOR AIRCRAFT.

(A) Entrance to the field shall be made at an altitude of 800 feet above the field elevation.

(B) Entrance shall be made at a 45-degree angle to the downwind leg.

(C) Landing shall be made into the wind as shown by the wind direction indicator, except at such times during the course of student pilot training when cross-wind landings are made pursuant to flight training under the supervision of a licensed instructor.

(D) In the event the cross-wind landings are made, pursuant to flight training under a licensed flight instructor, planes making landings into the wind shall have the right-of-way.

(E) A 180-degree change in direction must be made after entrance into the downwind leg before a landing shall be made.

(F) After landing is made, all planes shall taxi on the righthand side of the runway to the hangar, flight line or tiedown.

(G) In tailing plane from point of tiedown, or hangar, to approach the point of take-off, the planes shall be kept to the righthand side of the runway.

(H) Incoming planes shall have the right-of-way at all times.

(I) Planes taxiing upon the runways, upon the approach of incoming planes, shall, if there is sufficient time to permit the same, be taxied to the righthand corner of the runway as viewed by incoming pilot of final approach, and from that point, aircraft shall be faced toward incoming aircraft at a 45-degree angle for run-up and pre-flight.

(J) No aircraft shall attempt to take off while an incoming aircraft is attempting to land.

(K) All take-offs shall be made into the wind as shown by the airport wind direction indicator, except cross-wind take-offs may be made in the course of student flight instructor or in the case where heavily loaded crop-spraying planes would create a danger to the residents of the city by being forced to take off on the northwest runway and causing it to reach an unsafe and low altitude as it came directly over the city; but such aircraft making a cross-wind take-off shall give the right-of-way to planes taking off into the wind.

(L) After take-off, aircraft shall climb to an altitude of 400 feet and make a 90-degree turn to the left, and after making the 90-degree turn to the left, aircraft intending to leave the field shall then turn to the right at a 45-degree angle, and those aircraft intending to return to the field for a landing shall turn to the left at a 90-degree angle and climb to an altitude of 800 feet, and from such point shall land as prescribed by the regular landing regulations set out in this chapter.

(M) Heavily loaded crop-sprayer airplanes shall not be bound by division (L) of this section if the requirements would possibly force the heavily loaded plane to make the dangerous 90-degree turn to the left while directly over the city.

(N) Aircraft in the traffic pattern have the right-of-way over aircraft wishing to enter such pattern.

(O) Aircraft flying over the airport without intending to land shall maintain an altitude of at least 1,500 feet.

(P) Aircraft when on the airport, shall taxi at a speed, and in such a manner, which will not endanger the occupants of said aircraft or other persons or property on or about such airport.
(Prior Code, § 13.12.010)

§ 52.02 BUILDINGS AND HANGARS.

(A) (1) No construction of any nature or the placement of any building or installation shall hereafter be made upon the airport, except upon a written permit to be issued by the City Finance Officer with the approval of the Council.

(2) The Council shall determine the location, material and design for all buildings, or installation of every nature made upon the report.

(3) The rental fee for the use of the ground upon which hangars or other buildings or installations are constructed or placed shall be set by the City Council. A lease agreement shall be written up between the city and the leasee with the rental fee as part of the agreement.
(Am. Ord. 134, passed 1-15-1996)

(B) Any person using the airport for a commercial purpose, such as flight training, operating for hire, plane rentals, aircraft repairing, crop spraying, or any other business, shall pay a license fee of \$200 per year and shall be required to procure from the City Finance Officer a license for such purpose

before engaging in any such activities; but there is excepted from the operation of these provisions, the casual and occasional use of the airport for commercial purposes by anyone having leased airport facilities.

(C) No flyable aircraft shall be used or stored upon the airport unless it is duly licensed by the state. (Prior Code, § 13.12.020) Penalty, see § 10.99

TITLE VII: TRAFFIC CODE

Chapter

70. CITY TRAFFIC CODE

CHAPTER 70: CITY TRAFFIC CODE

Section

- 70.01 General regulations
- 70.02 Speed limits
- 70.03 Parking
- 70.04 Turning
- 70.05 Heavy machinery
- 70.06 Exhibition driving
- 70.07 Stop signs
- 70.08 Careless driving

- 70.99 Penalty

§ 70.01 GENERAL REGULATIONS.

(A) It is unlawful for any person to operate a motor vehicle upon the public streets or alleys of the city in violation of any provision of this chapter or in violation of any law of the state which is not in conflict with this chapter.

(B) The Governing Body of the city may by resolution designate through-streets, safety zones, quiet zones, limited parking areas, speed zones, truck routes and the character and placement of all official traffic signs and signals.

(Prior Code, § 10.04.010) Penalty, see § 70.99

§ 70.02 SPEED LIMITS.

(A) (1) No person shall operate any vehicle upon the public streets or alleys of the city in a manner which, under the circumstances, tends to endanger life or property.

(2) The speed limit within the city, except upon the highways under state control or in special speed zones, shall be 20 mph in the business district and upon all alleys, and 25 mph in the residential districts.

(Ord. 148, passed 9-21-1998)

(B) The business district is defined as that part of Main Street between First Street and Eighth Street; the remaining streets and alleys of the city shall comprise the residential district.

(Prior Code, § 10.04.020) (Res. passed 1-18-1992)

Penalty, see § 70.99

§ 70.03 PARKING.

(A) Double parking upon any of the city streets is unlawful.

(B) Center parking upon any of the city streets is unlawful except that farm trucks of 1 ton or larger size or vehicles towing livestock trailers shall be allowed to center park on that portion of Seventh Street between Main and Rosebud Street and on that portion of Fifth Street between Main and Church Streets for a limit of 10 minutes between the hours of 6:00 a.m. to 7:00 p.m.

(C) It is unlawful to park in any alley in such a manner as to obstruct it in any way.

(D) No panel job or truck, except what is commonly known as a pickup with an open box and a clear view to the rear, shall be allowed to park upon that portion of Main Street between Fifth and Eighth Streets except with special permission from the Mayor or the Chief of Police.

(E) The driver of a vehicle that is parked either at the side or in the middle of any city streets shall, in leaving its place of parking, give the right-of-way to the ordinary traffic upon such streets.

(F) The drivers of vehicles parked in the center of the street, where the parking is permitted, shall give the right-of-way to vehicles parked at the curb when the vehicles are in the act of leaving their place of parking.

(G) It is unlawful for any person to leave any vehicle, trailer, machinery or equipment continuously parked upon the streets or public right-of-way of what has been defined as the business district of the city for more than 48 hours; and for more than 72 hours on the streets or public right-of-way in the remaining areas of the city limits lying outside of the business district.

(Am. Ord. 167, passed 12-17-2001)

(H) It is unlawful for any person to park any vehicle upon the public sidewalks of the city, or in such a manner as to obstruct the crosswalks in any city street.

(I) All cars parked within the business district of the city shall be parked at the proper angle between the lines drawn on the pavement for such purpose.

(J) No cars or trucks shall be parked at any place within the city where the curb is painted red or within 25 feet of any fire hydrant which is painted red, nor at any place where they might tend to obstruct any intersection between any of the streets and alleys of the city.

(K) (1) Parking at the following public area shall be limited to 72 consecutive hours: the city parking lot located north of the city hall and adjacent to it and running to Seventh Street, being bordered on the west by Church Street and on the east by the alley dividing Main Street from Church Street.

(2) All truck trailers, other trailers and machinery being parked on the parking area described in division (K)(1) of this section are required to use a plank 2 inches by 12 inches by 24 inches to dolly down on.

(Prior Code, § 10.04.030) (Res. passed 4-2-1984) Penalty, see § 70.99

§ 70.04 TURNING.

(A) “U” turns are prohibited upon all the streets and alleys within the city except at intersections, and such “U” turns are further prohibited at the intersections of Main Street with Fifth, Sixth and Seventh Streets.

(B) Upon making proper signals, cross-lane turns may be made at all intersections and no cross-lane turns may be made on Main Street between Eighth Street and Second Street except into a service entrance to a business.

(C) Every driver of a motor vehicle turning into another street or alley to the right shall turn the corner as near to the righthand boundary of the road as possible.

(D) Every driver of a motor vehicle turning into another street or alley to the left of him or her shall, before turning, pass to the right and beyond the center of the intersection of the streets or alleys. (Prior Code, § 10.04.040) (Ord. 73B, passed - -1984) Penalty, see § 70.99

§ 70.05 HEAVY MACHINERY.

(A) It is unlawful for any person to drive any machinery or vehicle of such a size or nature as to injure any street crossings, culverts or pavement inside the city.

(B) If anyone shall violate this section he or she shall be deemed guilty of a misdemeanor and shall also be liable to the amount of damage he or she caused.

(Prior Code, § 10.04.050) Penalty, see § 70.99

§ 70.06 EXHIBITION DRIVING.

(A) It is unlawful for any person who operates a motor vehicle within the limits of the city to operate the motor vehicle in such a manner that creates or causes unnecessary engine noise, or tire squeal, skid or slide upon acceleration or stopping; or that simulates a temporary race; or that causes the vehicle to unnecessarily turn abruptly or sway.

(B) A person operating a vehicle in violation of division (A) of this section shall be guilty of exhibition driving.

(Prior Code, § 10.04.060) Penalty, see § 70.99

§ 70.07 STOP SIGNS.

Except when directed to proceed by a police officer or traffic-control signal, every driver of a vehicle approaching a stop intersection indicated by a stop sign shall come to a full stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection. After having stopped, the driver shall yield the right-of-way to any vehicle which has entered or is approaching the intersection from another highway and shall not proceed into the intersection until certain traffic may effect safe passage.

(Prior Code, § 10.04.070) Penalty, see § 70.99

§ 70.08 CARELESS DRIVING.

Any person who drives any motor vehicle upon any street, alley or highway of the city carelessly or heedlessly in disregard of the rights and safety of others, or without due caution, circumspection and at a speed or in a manner so as to endanger or be likely to endanger any person or property, shall be guilty of careless driving.

(Prior Code, § 10.04.080) Penalty, see § 70.99

§ 70.99 PENALTY.

(A) (1) It is the intention of the City Council to adopt the same fines and costs currently being implemented by the state for the following traffic violations:

- (a) Careless driving, as defined in § 70.08;
- (b) Speeding on municipal streets, as defined in § 70.02;
- (c) Exhibition driving, as defined in § 70.06;
- (d) Illegal u-turn, as defined in § 70.04; and
- (e) Traffic sign or signal violation, as defined in § 70.07.

(2) As of the effective date of this section, the penalty for careless driving in violation of § 70.08 will be a \$50 fine and \$44 in costs for a total of \$94 per municipal violation.

(3) As of the effective date of this section, the penalty for speeding on municipal streets as defined in § 70.02 will be based upon the following schedule:

(a) If the violator is 1-5 mph over the speed limit, the fine will be \$15 and the costs will be \$44 for a total of \$59.

(b) If the violator is 6-10 mph over the speed limit, the fine will be \$35 and the costs will be \$44 for a total of \$79.

(c) If the violator is 11-15 mph over the speed limit, the fine will be \$55 and the costs will be \$44 for a total of \$99.

(d) If the violator is 16-25 mph over the speed limit, the fine will be \$75 and the costs will be \$44 for a total of \$119.

(e) If the violator is 26 mph or more over the speed limit, the fine will be \$179 and the costs will be \$44 for a total of \$223.

(4) As of the effective date of this section, the penalty for exhibition driving in violation of § 70.06 will be a \$94 fine and \$44 in costs for a total of \$138 per municipal violation.

(5) As of the effective date of this section, the penalty for illegal u-turn as defined in § 70.04 will be a \$50 fine and \$44 in costs for a total of \$94 per municipal violation.

(6) As of the effective date of this section, the penalty for a traffic sign or signal violation as defined in § 70.07 will be a \$50 fine and \$44 in costs for a total of \$94 per municipal violation.

(7) The law enforcement officers in the city will enforce all other state criminal laws, including, but not limited to traffic laws, pursuant to the South Dakota Codified Laws. The fines and costs for those criminal violations will be set according to state law.

(Res. passed 12-20-2004)

(B) The fine for violating § 70.03 shall be \$50 for each offense. Twenty-four hours after a ticket has been issued, the vehicle, trailer, machinery item or piece of equipment will be towed at the owner's expense if still parked in the city's right-of-way.

(Ord. 167, passed 12-17-2001)

TITLE IX: GENERAL REGULATIONS

Chapter

90. STREETS AND SIDEWALKS

91. ANIMALS

92. PARKS AND PUBLIC PLACES

93. ABANDONED VEHICLES

94. FIRE PREVENTION; FIREWORKS

95. HEALTH AND SANITATION; NUISANCES

CHAPTER 90: STREETS AND SIDEWALKS

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- 90.003 Guarding of excavations
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STREET USE REGULATIONS**§ 90.001 INSTALLATION OF SIGNS AND SIGNALS.**

The city is authorized to install such mechanical or other traffic signs or signals as may be reasonably appropriate to designate arterial or stop streets, to guard against dangerous intersections, and to provide for the safety or stop zones in the vicinity of schools and churches within the city, or quiet signs in the vicinity of the hospital and rest home.

(Prior Code, § 12.04.010)

§ 90.002 PLACEMENT OF POLES FOR STRINGING WIRES.

All persons, firms and corporations, whether by themselves or by their agents, and whether acting under an existing franchise or one hereafter granted, unless otherwise provided, shall set all poles used for stringing wires, whether for telephone or electric purposes, in the alleys of the city, and in such a manner as not to unreasonably interfere with the passage of the public in and through such alleys. (Prior Code, § 12.04.020) Penalty, see § 90.999

§ 90.003 GUARDING OF EXCAVATIONS.

Excavations along any city street, alley or sidewalk must be securely guarded to prevent injury to passersby. (Prior Code, § 12.04.030) Penalty, see § 90.999

§ 90.004 UNLAWFUL ACTIVITIES.

(A) Unlawful snow removal activities:

(1) Pushing or piling snow from any private premises onto any public street, public right-of-way or alley of the city;

(2) Pushing or piling snow from one private premises onto another private premises; and

(3) The fine for each unlawful snow removal activity shall be \$25 for each separate offense, in addition to paying the cost of removing the snow to correct the unlawful snow removal situation. (Ord. 149, passed - -)

(B) It is unlawful to drain water from any private premises into or upon any of the public streets or alleys, except for such surface waters as naturally drain therein.

(C) It is unlawful to wash cars or vehicles of any nature upon any of the public streets or alleys within the city which are surfaced with concrete or bituminous materials.

(D) It is unlawful for any person to place or maintain any approach to a private driveway within the corporate limits of the city which obstructs the proper drainage or proper maintenance of any of the city streets.

(E) It is unlawful to use the sidewalks, parkways or streets within the city for the purpose of displaying or storing farm implements, motor vehicles or other bulky goods; but upon special occasions, the Mayor may temporarily permit such use thereof.

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(F) It is unlawful to place in the street or in the parking space between the curb and the property line, within the corporate limits of the city, any gasoline pump or other device serving the same purpose.

(G) It is unlawful to obstruct any of the streets or alleys of the city, or in any way interfere with the public use thereof.

(H) It is unlawful for any person to in any way interfere with, damage, mutilate or deface any of the underground cables or any wiring, lamp posts or other materials used in the public lighting system of the city.

(I) It is unlawful to hinder or obstruct any city employee in lawfully making improvements in any street, road or alley of the city.

(J) It is unlawful for any person without proper authority to dig up, break or injure any public crosswalk, sidewalk, street or alley.

(K) It is unlawful for persons to gather in crowds or mobs or for any person to so stand upon any city street or sidewalk in such a manner as to obstruct free passage thereon.
(Prior Code, § 12.04.040) (Ord. 116, passed - -1993) Penalty, see § 90.999

STREET NAMES AND NUMBERS**§ 90.020 GENERALLY.**

All streets and the intersections thereof, and all business and dwelling houses respectively in the city, shall be named and numbered with lettering and numbers of a uniform size. All names of streets and numbers of the intersections thereof and all numbers for business and dwelling houses shall conform to the system of streets with the names and numbers thereon as shown by the official plan of the city.
(Prior Code, § 12.08.010) Penalty, see § 90.999

§ 90.021 LETTERS AND NUMBERS; SIZE; OPTIONS FOR OBTAINING.

The letters and numbers for the purpose of such naming and numbering shall consist of 3-inch aluminum letters and figures to be provided by the city at cost, provided that it is optional with the property owners as to whether they shall obtain their numbers from the city, so long as the size and kind specified in this chapter are used.
(Prior Code, § 12.08.020)

§ 90.022 POSTING.

It shall be the duty of the Street Commissioner to see to the posting of street names and numbers, and the duty of the property owners to see to the posting of numbers on their business and dwelling houses. All street names and numbers of business and dwelling houses must be posted in a convenient and conspicuous place and in such a position as to be easily seen from the street.
(Prior Code, § 12.08.030)

STREET GRADES

§ 90.035 INITIAL POINT FOR COMPUTING GRADES.

The top of the stone foundation at the southeast corner of the brick bank building on the southwest corner of Sixth and Main Streets, being the northeast corner of Block 61, shall be taken as the bench or the initial point from which all grades within the city are computed, the assumed datum being 100 feet below bench mark.
(Prior Code, § 12.12.010)

§ 90.036 GRADE LINES.

The grade line from one corner of a block or part of a block at which grade is established in this chapter shall be a uniform slope ascending or descending to the next corner of the same block.
(Prior Code, § 12.12.020)

§ 90.037 SLOPE OF SIDEWALK.

The slope of the sidewalk shall be $\frac{1}{4}$ of an inch to 1 foot descending from the lot line to the curblineline.
(Prior Code, § 12.12.030)

§ 90.038 CENTERLINES OF STREETS.

The grade along the centerline of Main Street between Fourth Street and Eighth Street shall be 2 inches below a straight line drawn from the curblineline to one side of the street to the curblineline on the opposite side; on all other streets within the city the centerline shall be 4 inches below.
(Prior Code, § 12.12.040)

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§ 90.039 STREET GRADE LIST.

The elevation above datum at the corners of the different blocks, lots and alleys shall be as indicated in this chart in feet and decimals of a foot.

Block 79 SE Corner	101.0
Block 79 SW Corner	102.0
Eighth and Church Streets SW Corner	93.2
Eighth and Church Streets NE Corner	93.4
Eighth and Church Streets NW Corner	93.2
Eighth and Church Streets SE Corner	93.4
Eighth and Logan Streets SE Corner	97.3
Eighth and Logan Streets SW Corner	97.0
Eighth and Logan Streets NE Corner	98.0
Eighth and Logan Streets NW Corner	98.4
Eighth and Main Streets SW Corner	94.8
Eighth and Main Streets NW Corner	95.0
Eighth and Main Streets NE Corner	95.4
Eighth and Main Streets SE Corner	95.0
Eighth and Rice Streets NW Corner	100.0
Eighth and Rice Streets SW Corner	100.0
Eighth and Rice Streets SE Corner	99.8
Eighth and Rice Streets NE Corner	99.8
Eighth Street and Spencer Avenue NW Corner	96.5
Eighth Street and Felton Avenue SW Corner	99.0
Eighth Street and Park Avenue NE Corner	91.0
Eighth Street and Park Avenue NW Corner	91.0
Eighth Street and Park Avenue SW Corner	91.2

Streets and Sidewalks

Eighth Street and Park Avenue SE Corner	91.5
Eighth Street and Felton Avenue NW Corner	99.7
Eighth Street and Felton Avenue NE Corner	101.0
Eighth Street and Spencer Avenue SE Corner	96.0
Eighth Street and Rosebud Avenue SE Corner	97.0
Eighth Street and Rosebud Avenue SW Corner	96.0
Eighth Street and Rosebud Avenue NW Corner	95.8
Eighth Street and Rosebud Avenue NE Corner	97.0
Eighth Street and Spencer Avenue SW Corner	96.0
Eighth Street and Felton Avenue SE Corner	101.0
Eighth Street and Whittecar Avenue SE Corner	92.5
Eighth Street and Whittecar Avenue SW Corner	92.5
Eighth Street and Whittecar Avenue NW Corner	92.0
Eighth Street and Whittecar Avenue NE Corner	92.2
Eighth Street and Spencer Avenue NE Corner	96.8
Eleventh and Church Streets NW Corner	96.8
Eleventh and Church Streets SW Corner	96.0
Eleventh and Church Streets SE Corner	97.4
Eleventh and Church Streets NE Corner	97.4
Eleventh and Logan Streets SW Corner	102.0
Eleventh and Logan Streets NE Corner	103.5
Eleventh and Logan Streets SE Corner	103.0
Eleventh and Logan Streets NW Corner	103.2
Eleventh and Main Streets SE Corner	98.7
Eleventh and Main Streets SW Corner	98.4
Eleventh and Main Streets NW Corner	98.5
Eleventh and Main Streets NE Corner	98.7

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Eleventh and Rice Streets NE Corner	101.0
Eleventh and Rice Streets NW Corner	103.5
Eleventh and Rice Streets SW Corner	103.5
Eleventh and Rice Streets SE Corner	101.8
Eleventh Street and Rosebud Avenue SW Corner	99.7
Eleventh Street and Spencer Avenue NE Corner	101.2
Eleventh Street and Spencer Avenue NW Corner	101.0
Eleventh Street and Spencer Avenue SW Corner	101.0
Eleventh Street and Rosebud Avenue NW Corner	99.7
Eleventh Street and Park Avenue SE Corner	101.0
Eleventh Street and Park Avenue SW Corner	100.6
Eleventh Street and Park Avenue NW Corner	102.0
Eleventh Street and Felton Avenue NE Corner	103.0
Eleventh Street and Felton Avenue NW Corner	103.0
Eleventh Street and Felton Avenue SW Corner	102.4
Eleventh Street and Felton Avenue SE Corner	102.5
Eleventh Street and Spencer Avenue SE Corner	101.0
Eleventh Street and Rosebud Avenue NE Corner	100.0
Eleventh Street and Park Avenue NE Corner	101.3
Eleventh Street and Whittecar Avenue SE Corner	95.0
Eleventh Street and Whittecar Avenue NE Corner	95.2
Eleventh Street and Whittecar Avenue NW Corner	98.5
Eleventh Street and Whittecar Avenue SW Corner	98.0
Eleventh Street and Rosebud Avenue SE Corner	100.0
Fifth and Church Streets SW Corner	108.5
Fifth and Church Streets SE Corner	107.0
Fifth and Church Streets NE Corner	105.8

Streets and Sidewalks

Fifth and Church Streets NW Corner	108.0
Fifth and Logan Streets SW Corner	113.5
Fifth and Logan Streets NE Corner	108.5
Fifth and Logan Streets NW Corner	108.0
Fifth and Logan Streets SE Corner	110.5
Fifth and Main Streets SE Corner	101.0
Fifth and Main Streets SW Corner	101.6
Fifth and Main Streets NW Corner	100.8
Fifth and Main Streets NE Corner	100.5
Fifth and Rice Streets SW Corner	101.0
Fifth and Rice Streets NW Corner	102.0
Fifth and Rice Streets NE Corner	103.0
Fifth and Rice Streets SE Corner	101.0
Fifth Street and Spencer Avenue SE Corner	94.0
Fifth Street and Spencer Avenue SW Corner	96.6
Fifth Street and Spencer Avenue NW Corner	94.5
Fifth Street and Park Avenue SE Corner	107.0
Fifth Street and Park Avenue SW Corner	107.5
Fifth Street and Park Avenue NW Corner	107.6
Fifth Street and Rosebud Avenue SE Corner	102.0
Fifth Street and Whittecar Avenue NE Corner	103.4
Fifth Street and Park Avenue NE Corner	107.0
Fifth Street and Felton Avenue SE Corner	92.8
Fifth Street and Felton Avenue SW Corner	92.0
Fifth Street and Felton Avenue NW Corner	92.3
Fifth Street and Rosebud Avenue SW Corner	101.8

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Fifth Street and Rosebud Avenue NW Corner	100.0
Fifth Street and Rosebud Avenue NE Corner	101.0
Fifth Street and Whittecar Avenue NW Corner	104.0
Fifth Street and Whittecar Avenue SW Corner	104.0
Fifth Street and Whittecar Avenue SE Corner	104.7
Fifth Street and Spencer Avenue NE Corner	93.2
Fifth Street and Felton Avenue NE Corner	93.3
First and Main Streets SW Corner	
First and Main Streets SE Corner	
First and Main Streets NE Corner	98.5
First and Main Streets NW Corner	98.5
First Street and Spencer Avenue NW Corner	100.3
First Street and Felton Avenue NE Corner	95.0
First Street and Felton Avenue NW Corner	95.0
First Street and Felton Avenue SW Corner	
First Street and Spencer Avenue SW Corner	
First Street and Spencer Avenue SE Corner	
First Street and Spencer Avenue NE Corner	100.0
First Street and Rosebud Avenue SE Corner	
First Street and Rosebud Avenue NE Corner	101.0
First Street and Rosebud Avenue NW Corner	101.0
First Street and Rosebud Avenue SW Corner	
First Street and Felton Avenue SE Corner	
Fourteenth and Main Streets NE Corner	112.0
Fourteenth and Main Streets SW Corner	110.0
Fourteenth and Main Streets SE Corner	110.0

Streets and Sidewalks

Fourteenth and Main Streets NW Corner	110.0
Fourteenth Street and Felton Avenue NE Corner	107.3
Fourteenth Street and Rosebud Avenue SE Corner	110.0
Fourteenth Street and Felton Avenue NW Corner	107.0
Fourteenth Street and Felton Avenue SW Corner	107.0
Fourteenth Street and Rosebud Avenue SW Corner	111.0
Fourteenth Street and Rosebud Avenue NW Corner	111.0
Fourteenth Street and Spencer Avenue SE Corner	98.0
Fourteenth Street and Spencer Avenue SW Corner	98.0
Fourteenth Street and Rosebud Avenue NE Corner	110.0
Fourteenth Street and Spencer Avenue NE Corner	97.0
Fourteenth Street and Spencer Avenue NW Corner	97.8
Fourteenth Street and Felton Avenue SE Corner	107.0
Fourth and Church Streets NE Corner	107.5
Fourth and Church Streets SW Corner	107.0
Fourth and Church Streets NW Corner	106.0
Fourth and Church Streets SE Corner	107.0
Fourth and Main Streets SW Corner	108.0
Fourth and Main Streets NW Corner	106.0
Fourth and Main Streets SE Corner	106.9
Fourth and Main Streets NE Corner	106.0
Fourth Street and Spencer Avenue NE Corner	93.0
Fourth Street and Rosebud Avenue SE Corner	101.0
Fourth Street and Rosebud Avenue SW Corner	102.0
Fourth Street and Whittecar Avenue NW Corner	103.3
Fourth Street and Rosebud Avenue NW Corner	101.0

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Fourth Street and Spencer Avenue NW Corner	95.0
Fourth Street and Spencer Avenue SW Corner	92.0
Fourth Street and Spencer Avenue SE Corner	93.0
Fourth Street and Felton Avenue NE Corner	91.5
Fourth Street and Park Avenue SE Corner	104.3
Fourth Street and Park Avenue SW Corner	107.0
Fourth Street and Park Avenue NW Corner	107.3
Fourth Street and Park Avenue NE Corner	105.8
Fourth Street and Whittecar Avenue SW Corner	103.0
Fourth Street and Whittecar Avenue SE Corner	103.8
Fourth Street and Rosebud Avenue NE Corner	100.0
Fourth Street and Felton Avenue NW Corner	91.3
Fourth Street and Felton Avenue SW Corner	92.0
Fourth Street and Felton Avenue SE Corner	91.8
Fourth Street and Whittecar Avenue NE Corner	103.3
Nepper and Main Streets SE Corner	103.0
Nepper and Main Streets NE Corner	105.0
Nepper and Main Streets SW Corner	100.0
Nepper and Main Streets NW Corner	101.0
Nepper and Rosebud Streets NE Corner	115.0
Nepper and Rosebud Streets SW Corner	112.0
Nepper and Rosebud Streets SE Corner	116.0
Nepper and Rosebud Streets NW Corner	113.0
Ninth and Church Streets NW Corner	92.2
Ninth and Church Streets SW Corner	92.2
Ninth and Church Streets SE Corner	92.4

Streets and Sidewalks

Ninth and Church Streets NE Corner	92.4
Ninth and Logan Streets SW Corner	102.0
Ninth and Logan Streets NW Corner	100.0
Ninth and Logan Streets NE Corner	103.0
Ninth and Logan Streets SE Corner	102.0
Ninth and Main Streets SE Corner	93.6
Ninth and Main Streets NE Corner	93.6
Ninth and Main Streets NW Corner	93.3
Ninth and Main Streets SW Corner	93.3
Ninth and Rice Streets NW Corner	97.5
Ninth and Rice Streets SW Corner	97.0
Ninth and Rice Streets SE Corner	97.0
Ninth and Rice Streets NE Corner	97.5
Ninth Street and Spencer Avenue SE Corner	97.5
Ninth Street and Whittecar Avenue NE Corner	90.7
Ninth Street and Felton Avenue SE Corner	101.5
Ninth Street and Felton Avenue NW Corner	100.7
Ninth Street and Felton Avenue NE Corner	100.4
Ninth Street and Whittecar Avenue NW Corner	90.5
Ninth Street and Whittecar Avenue SW Corner	91.0
Ninth Street and Park Avenue SE Corner	90.0
Ninth Street and Rosebud Avenue NE Corner	95.8
Ninth Street and Rosebud Avenue NW Corner	94.6
Ninth Street and Rosebud Avenue SW Corner	94.5
Ninth Street and Rosebud Avenue SE Corner	95.8
Ninth Street and Park Avenue SW Corner	89.5

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Ninth Street and Park Avenue NW Corner	90.0
Ninth Street and Park Avenue NE Corner	90.5
Ninth Street and Spencer Avenue SW Corner	97.5
Ninth Street and Spencer Avenue NW Corner	97.3
Ninth Street and Whittecar Avenue SE Corner	91.3
Ninth Street and Spencer Avenue NE Corner	98.0
Ninth Street and Felton Avenue SW Corner	100.6
Second and Church Streets NW Corner	104.0
Second and Church Streets NE Corner	104.0
Second and Church Streets SE Corner	103.5
Second and Church Streets SW Corner	103.8
Second and Main Streets SW Corner	104.5
Second and Main Streets NW Corner	106.5
Second and Main Streets NE Corner	106.5
Second and Main Streets SE Corner	104.3
Second Street and Felton Avenue SE Corner	96.0
Second Street and Felton Avenue SW Corner	96.0
Second Street and Felton Avenue NW Corner	93.8
Second Street and Felton Avenue NE Corner	93.3
Second Street and Spencer Avenue SE Corner	101.0
Second Street and Rosebud Avenue NE Corner	102.5
Second Street and Rosebud Avenue NW Corner	103.0
Second Street and Rosebud Avenue SW Corner	103.0
Second Street and Spencer Avenue NE Corner	97.0
Second Street and Spencer Avenue NW Corner	98.0
Second Street and Spencer Avenue SW Corner	101.0

Streets and Sidewalks

Second Street and Rosebud Avenue SE Corner	102.7
Seventh and Church Streets SE Corner	95.0
Seventh and Church Streets SW Corner	95.0
Seventh and Church Streets NW Corner	94.5
Seventh and Church Streets NE Corner	94.0
Seventh and Logan Streets SW Corner	106.0
Seventh and Logan Streets NW Corner	96.0
Seventh and Logan Streets NE Corner	94.7
Seventh and Logan Streets SE Corner	103.7
Seventh and Main Streets SE Corner	99.0
Seventh and Main Streets NE Corner	99.0
Seventh and Main Streets NW Corner	99.5
Seventh and Main Streets SW Corner	99.2
Seventh and Rice Streets SW Corner	101.0
Seventh and Rice Streets NW Corner	101.0
Seventh and Rice Streets NE Corner	105.0
Seventh and Rice Streets SE Corner	105.7
Seventh Street and Spencer Avenue NE Corner	95.0
Seventh Street and Spencer Avenue NW Corner	95.5
Seventh Street and Whittecar Avenue SE Corner	94.0
Seventh Street and Spencer Avenue SE Corner	94.7
Seventh Street and Whittecar Avenue SW Corner	94.0
Seventh Street and Rosebud Avenue NE Corner	96.3
Seventh Street and Rosebud Avenue NW Corner	97.0
Seventh Street and Rosebud Avenue SW Corner	98.0
Seventh Street and Park Avenue NE Corner	108.0

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Seventh Street and Park Avenue NW Corner	108.2
Seventh Street and Park Avenue SW Corner	107.0
Seventh Street and Park Avenue SE Corner	108.0
Seventh Street and Rosebud Avenue SE Corner	98.0
Seventh Street and Whittecar Avenue NW Corner	103.5
Seventh Street and Whittecar Avenue NE Corner	103.5
Seventh Street and Spencer Avenue SW Corner	97.0
Seventh Street and Felton Avenue SE Corner	98.0
Seventh Street and Felton Avenue SW Corner	97.0
Seventh Street and Felton Avenue NW Corner	97.2
Seventh Street and Felton Avenue NE Corner	100.3
Sixth and Church Streets SW Corner	103.0
Sixth and Church Streets SE Corner	101.4
Sixth and Church Streets NW Corner	103.0
Sixth and Church Streets NE Corner	102.2
Sixth and Logan Streets NW Corner	101.0
Sixth and Logan Streets SW Corner	105.0
Sixth and Logan Streets SE Corner	106.0
Sixth and Logan Streets NE Corner	106.5
Sixth and Main Streets NW Corner	98.3
Sixth and Main Streets SW Corner	99.3
Sixth and Main Streets NE Corner	98.0
Sixth and Main Streets SE Corner	98.3
Sixth and Rice Streets NE Corner	105.0
Sixth and Rice Streets SW Corner	102.8
Sixth and Rice Streets SE Corner	106.0

Streets and Sidewalks

Sixth and Rice Streets NW Corner	103.0
Sixth Street and Whittecar Avenue NW Corner	102.7
Sixth Street and Whittecar Avenue SW Corner	103.0
Sixth Street and Whittecar Avenue SE Corner	102.4
Sixth Street and Rosebud Avenue NE Corner	96.8
Sixth Street and Spencer Avenue NE Corner	94.0
Sixth Street and Park Avenue NE Corner	107.0
Sixth Street and Park Avenue NW Corner	99.0
Sixth Street and Park Avenue SW Corner	
Sixth Street and Park Avenue SE Corner	106.0
Sixth Street and Spencer Avenue NW Corner	96.0
Sixth Street and Spencer Avenue SW Corner	95.0
Sixth Street and Rosebud Avenue NW Corner	97.0
Sixth Street and Whittecar Avenue NE Corner	102.0
Sixth Street and Rosebud Avenue SW Corner	97.0
Sixth Street and Felton Avenue SE Corner	94.0
Sixth Street and Rosebud Avenue SE Corner	96.0
Sixth Street and Felton Avenue NE Corner	95.0
Sixth Street and Felton Avenue NW Corner	93.3
Sixth Street and Felton Avenue SW Corner	93.0
Sixth Street and Spencer Avenue SE Corner	94.2
South Boundary Gregory Heights Addition and Rice Street E. Corner	98.4
South Boundary Gregory Heights Addition and Logan Street W. Corner	100.5
South Boundary Gregory Heights Addition and Logan Street E. Corner	100.0

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South Boundary Gregory Heights Addition and Rice Street W. Corner	98.2
Tenth and Church Streets SW Corner	95.7
Tenth and Church Streets SW Corner	95.4
Tenth and Church Streets SE Corner	95.7
Tenth and Church Streets NW Corner	95.4
Tenth and Logan Streets NE Corner	102.5
Tenth and Logan Streets SE Corner	102.0
Tenth and Logan Streets NW Corner	102.0
Tenth and Logan Streets SW Corner	101.0
Tenth and Main Streets SW Corner	96.2
Tenth and Main Streets NW Corner	96.0
Tenth and Main Streets NE Comer	97.0
Tenth and Main Streets SE Corner	97.0
Tenth and Rice Streets SE Corner	100.6
Tenth and Rice Streets NW Corner	103.0
Tenth and Rice Streets SW Corner	100.0
Tenth and Rice Streets NE Corner	101.7
Tenth Street and Felton Avenue SW Corner	101.9
Tenth Street and Spencer Avenue NW Corner	97.3
Tenth Street and Felton Avenue SE Corner	101.4
Tenth Street and Felton Avenue NE Corner	101.7
Tenth Street and Felton Avenue NW Corner	101.7
Tenth Street and Spencer Avenue SW Corner	97.0
Tenth Street and Spencer Avenue SE Corner	97.0
Tenth Street and Whittecar Avenue NE Corner	94.4

Streets and Sidewalks

Tenth Street and Whittecar Avenue NW Corner	94.0
Tenth Street and Whittecar Avenue SW Corner	94.0
Tenth Street and Whittecar Avenue SE Corner	94.4
Tenth Street and Park Avenue SE Corner	92.2
Tenth Street and Rosebud Avenue SE Corner	98.3
Tenth Street and Rosebud Avenue SW Corner	94.6
Tenth Street and Rosebud Avenue NW Corner	98.0
Tenth Street and Rosebud Avenue NE Corner	98.3
Tenth Street and Park Avenue SW Corner	92.5
Tenth Street and Spencer Avenue NE Corner	97.5
Tenth Street and Park Avenue NW Corner	93.5
Tenth Street and Park Avenue NE Corner	93.0
Third and Church Streets NW Corner	105.5
Third and Church Streets SW Corner	106.5
Third and Church Streets SE Corner	106.0
Third and Church Streets NE Corner	106.0
Third and Main Streets NE Corner	108.0
Third and Main Streets SW Corner	107.5
Third and Main Streets NW Corner	107.0
Third and Main Streets SE Corner	107.5
Third Street and Felton Avenue SE Corner	92.6
Third Street and Spencer Avenue NW Corner	100.0
Third Street and Spencer Avenue SW Corner	103.0
Third Street and Spencer Avenue SE Corner	98.0
Third Street and Spencer Avenue NE Corner	
Third Street and Park Avenue NE Corner	103.6

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Third Street and Rosebud Avenue SE Corner	103.0
Third Street and Rosebud Avenue SW Corner	104.0
Third Street and Rosebud Avenue NE Corner	103.0
Third Street and Felton Avenue SW Corner	94.8
Third Street and Felton Avenue NW Corner	91.2
Third Street and Park Avenue SE Corner	103.4
Third Street and Park Avenue SW Corner	104.8
Third Street and Park Avenue NW Corner	103.8
Third Street and Felton Avenue NE Corner	91.2
Third Street and Whittecar Avenue NE Corner	102.8
Third Street and Whittecar Avenue NW Corner	102.0
Third Street and Whittecar Avenue SW Corner	101.5
Third Street and Whittecar Avenue SE Corner	102.5
Third Street and Rosebud Avenue NW Corner	104.0
Thirteenth and Main Streets NE Corner	107.0
Thirteenth and Main Streets SW Corner	104.0
Thirteenth and Main Streets SE Corner	107.0
Thirteenth and Main Streets NW Corner	105.0
Thirteenth Street and Rosebud Avenue NE Corner	108.3
Thirteenth Street and Rosebud Avenue NW Corner	108.4
Thirteenth Street and Rosebud Avenue SW Corner	108.0
Thirteenth Street and Felton Avenue NE Corner	106.0
Thirteenth Street and Spencer Avenue SE Corner	95.2
Thirteenth Street and Spencer Avenue SW Corner	98.0
Thirteenth Street and Spencer Avenue NW Corner	97.3
Thirteenth Street and Spencer Avenue NE Corner	97.0

Streets and Sidewalks

Thirteenth Street and Felton Avenue NW Corner	106.3
Thirteenth Street and Felton Avenue SW Corner	106.0
Thirteenth Street and Rosebud Avenue SE Corner	107.0
Thirteenth Street and Felton Avenue SE Corner	105.8
Twelfth and Main Streets NE Corner	103.0
Twelfth and Main Streets NW Corner	102.8
Twelfth and Main Streets SW Corner	102.8
Twelfth and Main Streets SE Corner	103.0
Twelfth Street and Spencer Avenue NE Corner	101.4
Twelfth Street and Spencer Avenue NW Corner	105.0
Twelfth Street and Spencer Avenue SW Corner	104.7
Twelfth Street and Spencer Avenue SE Corner	104.0
Twelfth Street and Felton Avenue NE Corner	105.0
Twelfth Street and Felton Avenue NW Corner	105.0
Twelfth Street and Felton Avenue SW Corner	104.7
Twelfth Street and Felton Avenue SE Corner	104.0
Twelfth Street and Rosebud Avenue SE Corner	103.4
Twelfth Street and Rosebud Avenue SW Corner	104.0
Twelfth Street and Rosebud Avenue NW Corner	103.8
Twelfth Street and Rosebud Avenue NE Corner	104.0
Von Seggern and Rosebud Streets SE Corner	111.5
Von Seggern and Rosebud Streets NW Corner	108.5
Von Seggern and Rosebud Streets NE Corner	106.3
Von Seggern and Rosebud Streets SW Corner	112.7
Von Seggern and Main Streets NE Corner	107.5
Von Seggern and Main Streets NW Corner	100.5

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Von Seggern and Main Streets SW Corner	106.0
Von Seggern and Main Streets SE Corner	109.0
Von Seggern's First Addition NE Corner Block 5	119.0
Von Seggern's First Addition NE Corner Block 4	100.0
Von Seggern's First Addition SE Corner Block 6	99.0
Von Seggern's First Addition SW Corner Block 5	101.0
Von Seggern's First Addition NW Corner Block 2	94.0
Von Seggern's First Addition SW Corner Block 2	93.3
Von Seggern's First Addition NW Corner Block 7	95.0
Von Seggern's First Addition SW Corner Block 7	92.0
Von Seggern's First Addition SE Corner Block 4	116.0
Von Seggern's First Addition SE Corner Block 7	90.0
Von Seggern's First Addition NW Corner Block 5	111.0
Von Seggern's First Addition SW Corner Block 6	91.0
Von Seggern's First Addition SW Corner Block 1	93.5

(Prior Code, Appendix B)

STREET TREES

§ 90.050 DEFINITIONS.

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

PARK TREES. Trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the city, or to which the public has free access as a park.

STREET TREES. Trees, shrubs, bushes and all other woody vegetation on land lying between property lines on either side of all streets, avenues or ways within the city.

(Prior Code, § 12.16.010) (Ord. 71, passed - -1983)

§ 90.051 CITY TREE BOARD.

(A) *Creation; composition.* There is created and established a City Tree Board which shall consist of 5 members, citizens and residents of this city, who shall be appointed by the Mayor with the approval of the Council.

(Prior Code, § 12.16.020) (Ord. 71, passed - -1983)

(B) *Term of office.* The term of the 5 persons to be appointed by the Mayor shall be 3 years, except that the term of 2 of the members appointed to the first Board shall be only for 1 year and the term of 2 members of the first Board shall be for 2 years. In the event that a vacancy shall occur during the term of any member, his or her successor shall be appointed for the unexpired portion of the term.

(Prior Code, § 12.16.030) (Ord. 71, passed - -1983)

(C) *Compensation.* Members of the Board shall serve without compensation.

(Prior Code, § 12.16.040) (Ord. 71, passed - -1983)

(D) *Duties and responsibilities.* It shall be the responsibility of the Board to study, investigate, counsel and develop and/or update annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. Such plan will be presented annually to the City Council and upon its acceptance and approval shall constitute the official comprehensive city tree plan for the city. The Board, when requested by the City Council, shall consider, investigate, make finding, report and recommend upon any special matter of question coming within the scope of its work.

(Prior Code, § 12.16.050) (Ord. 71, passed - -1983)

(E) *Operation.* The Board shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.

(Prior Code, § 12.16.060) (Ord. 71, passed - -1983)

§ 90.052 SPECIES TO BE PLANTED.

The following list constitutes the official street tree species for the city. No species other than those included in this list may be planted as street trees without written permission of the City Tree Board:

<i>SMALL TREES</i>	<i>MEDIUM TREES</i>	<i>LARGE TREES</i>
Apricot	Ash, green	Maple, silver
Crabapple (flowering)	Hackberry	Maple, sugar
Golden rain tree	Honey locust (thornless)	Oak, bur

<i>SMALL TREES</i>	<i>MEDIUM TREES</i>	<i>LARGE TREES</i>
Hawthorne	Linden or basswood	Sycamore
Pear, Bradford	Mulberry, red	Cottonwood (cottonless)
Redbud	Oak, English	
Soapberry	Oak, red	
Lilac, Japanese tree	Pagodatree, Japanese	
Peach (flowering)	Pecan	
Plum, purpleleaf	Birch, river	
Serviceberry	Osage orange, thornless	
	Persimmon	
	Poplar, white	
	Sassafras	

(Prior Code, § 12.16.070) (Ord. 71, passed - -1983) Penalty, see § 90.999

§ 90.053 SPACING.

The spacing of street trees will be in accordance with the 3 species size classes listed in § 90.052, and no trees may be planted closer together than the following: small trees, 30 feet; medium trees, 40 feet; and large trees, 50 feet; except in special plantings designed or approved by a landscape architect. (Prior Code, § 12.16.080) (Ord. 71, passed - -1983) Penalty, see § 90.999

§ 90.054 DISTANCE FROM CURB AND SIDEWALK.

The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the 3 species size classes listed in § 90.052, and no trees may be planted closer to any curb or sidewalk than the following: small trees, 2 feet; medium trees, 3 feet; and large trees, 4 feet. (Prior Code, § 12.16.090) (Ord. 71, passed - -1983) Penalty, see § 90.999

§ 90.055 DISTANCE FROM STREET CORNERS AND FIREPLUGS.

No street tree shall be planted closer than 35 feet from any street corner, measured from the point of interest intersecting curbs or curblines. No street tree shall be planted closer than 10 feet from any fireplug. (Prior Code, § 12.16.100) (Ord. 71, passed - -1983) Penalty, see § 90.999

§ 90.056 UTILITIES.

No street trees other than those species listed as small trees in § 90.052 may be planted under or within 10 lateral feet of any overhead utility wire, or over or within 5 lateral feet of any underground water line, sewer line, transmission line or other utility.

(Prior Code, § 12.16.110) (Ord. 71, passed - -1983) Penalty, see § 90.999

§ 90.057 PUBLIC TREE CARE.

(A) The city shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the line of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

(B) The City Tree Board may remove, or cause to order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect or other pests. This section does not prohibit the planting of street trees by adjacent property owners providing that the selection and location of the trees is in accordance with §§ 90.052 through 90.056.

(Prior Code, § 12.16.120) (Ord. 71, passed - -1983)

§ 90.058 TREE TOPPING.

(A) *TOPPING* is defined as the severe cutting back of limbs to stubs larger than 3 inches in diameter within the tree's crown to such a degree so as to remove their normal canopy and disfigure the tree.

(B) It is unlawful as a normal practice for any person, firm or city department to top any street tree, park tree or other tree on public property.

(C) Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical, may be exempted from this chapter at the determination of the City Tree Board.

(Prior Code, § 12.16.130) (Ord. 71, passed - -1983) Penalty, see § 90.999

§ 90.059 PRUNING; CORNER CLEARANCE.

Every owner of any tree overhanging any street or right-of-way within the city shall prune the branches so that such branches shall not obstruct the view of any street intersection and so that there shall be a clear space of 8 feet above the surface of the street or sidewalk. The owners shall remove all dead,

diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The city shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a streetlight or interferes with visibility of any traffic-control device or sign.

(Prior Code, § 12.16.140) (Ord. 71, passed - -1983) Penalty, see § 90.999

§ 90.060 DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY.

The city shall have the right to cause the removal of any dead or diseased trees on private property within the city when the trees constitute a hazard to life and property or harbor insects or disease which constitute a potential threat to other trees within the city. The City Tree Board will notify in writing the owners of the trees. Removal shall be done by the owners at their own expense within 60 days after the date of service of notice. In the event of failure of owners to comply with the provisions, the city shall have the authority to remove the trees and charge the cost of removal on the owners' property tax notice.

(Prior Code, § 12.16.150) (Ord. 71, passed - -1983)

§ 90.061 REMOVAL OF STUMPS.

All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

(Prior Code, § 12.16.160) (Ord. 71, passed - -1983) Penalty, see § 90.999

§ 90.062 INTERFERENCE WITH CITY TREE BOARD.

It is unlawful for any person to prevent, delay or interfere with the City Tree Board, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying or removing of any street trees, park trees or trees on private grounds, as authorized in this chapter.

(Prior Code, § 12.16.170) (Ord. 71, passed - -1983) Penalty, see § 90.999

§ 90.063 INJURING TREES PROHIBITED.

It is unlawful for any person to injure in any manner or destroy trees growing on public grounds or public streets or rights-of-way, or to allow animals which he or she may own to injure or destroy the trees.

(Prior Code, § 12.16.180) Penalty, see § 90.999

§ 90.064 ARBORISTS LICENSE AND BOND.

(A) It is unlawful for any person or firm to engage in the business or occupation of pruning, treating or removing street or park trees within the city without first applying for and procuring a license. The license fee shall be \$25 annually in advance: provided, however, that no license shall be required of any public service company or city employee doing the work in the pursuit of their public service endeavors.

(B) Before any license shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of \$50,000 for bodily injury and \$100,000 property damage indemnifying the city or any person injured or damaged resulting from the pursuit of such endeavors as herein described.

(Prior Code, § 12.16.190) (Ord. 71, passed - -1983) Penalty, see § 90.999

§ 90.065 REVIEW BY CITY COUNCIL.

The City Council shall have the right to review the conduct, acts and decisions of the City Tree Board. Any person may appeal from any ruling or order of the City Tree Board to the City Council who may hear the matter and make final decision.

(Prior Code, § 12.16.200) (Ord. 71, passed - -1983)

EXCAVATIONS

§ 90.075 BOND REQUIRED.

(A) There shall be no excavation of any kind in any of the city streets which are paved with concrete or asphalt material, unless the person or persons desiring to make such excavation pay an amount equal to \$5 per square foot of the size of the excavation before any excavation begins. Failure to pay the required amount before excavation starts shall result in a \$200 fine.

(Prior Code, § 12.24.010) (Am. Ord. 154, passed 5-15-2000) Penalty, see § 90.999

§ 90.076 SUPERVISION OF CITY AUTHORITIES.

All excavations made in the area over which paving is shortly to be made or has been made, shall be made and filled under the supervision of city authorities, and the fill of the excavation shall be made in a manner as to give sound footing to the paving.

(Prior Code, § 12.24.020) Penalty, see § 90.999

§ 90.077 FACILITATION OF PUBLIC TRAVEL AND DRAINAGE.

Trenches in public streets or alleys shall be excavated so as to impede the public travel as little as possible. The crossing of gutters and highways shall be left in a shape as to admit the easy escape of water during storms. Planks are to be provided where sidewalks or crossings are open so as to facilitate easy crossing.

(Prior Code, § 12.24.030) Penalty, see § 90.999

§ 90.078 NIGHT VISIBILITY REQUIREMENTS.

An unfinished excavation shall be shown by red lights or torches of some kind during the night.

(Prior Code, § 12.24.040) Penalty, see § 90.999

§ 90.079 DELAY OF WORK PROHIBITED.

Work on excavating in the public streets shall not be delayed.

(Prior Code, § 12.24.050) Penalty, see § 90.999

§ 90.080 CLEANUP AND REPAIR.

(A) It shall be the duty of any party making an excavation in any paved street or alley to immediately, upon the completion of the work of the excavation, cause the excavation area to be cleaned up and repaired.

(B) Dirt and material from the excavation is to be removed and replaced with gravel. The gravel is to be mechanically packed every 24 inches and left flush with the paved surface area.

(Prior Code, § 12.24.060) (Am. Ord. 171, passed 5-19-2003) Penalty, see § 90.999

§ 90.081 RESTORATION OF SETTLED EXCAVATION.

In the event of an excavation settling within 12 months after being refilled, the Water and Street Commissioners shall report the same to the City Council and the City Council shall have the right to demand and require the restoration of the settled street, area or sidewalk by the party who made the excavation, or by the city itself at the party's expense.

(Prior Code, § 12.24.070)

SIDEWALKS

§ 90.095 GRADE, MATERIAL AND FOUNDATION.

All sidewalks built within the city shall be built on an established grade and shall be of cement, of the proper width, and with a proper concrete foundation.

(Prior Code, § 12.20.010) Penalty, see § 90.999

§ 90.096 DISTANCE FROM LOT LINES.

(A) All sidewalks built in the business district of Main Street shall be built abutting the lot lines and shall be at least 12 feet in width.

(B) All sidewalks built along all streets except those of the business district shall be built 4 feet from the lot lines and shall be 4 feet in width, and there shall be a park area of 24 feet on the outside of the sidewalk to the curb line.

(Prior Code, § 12.20.020) (Am. Ord. 182, passed 7-5-2005) Penalty, see § 90.999

§ 90.097 SALE OF WARES.

No person or persons shall place wares exposed for sale upon sidewalks of the city except in the business district of Main Street where the wares may be displayed on that 3 feet of the walk next to the buildings.

(Prior Code, § 12.20.030) Penalty, see § 90.999

§ 90.098 SNOW REMOVAL.

It shall be the duty of every occupant of every premises within the incorporated city which abuts any public sidewalk, or the owner of the premises so abutting if same is not occupied, to remove the snow from the sidewalk as adjoins the premises within 24 hours after any snowfall.

(Prior Code, § 12.20.040) Penalty, see § 90.999

§ 90.099 EXCAVATIONS.

Persons in the process of excavating near or beneath public sidewalks are subject to the same regulations in doing such excavating as they would be were they excavating in the city streets, and shall take reasonable precautions for the public safety during the day and night, and shall not permit such excavations to disrupt travel over said sidewalks for an unreasonable period of time.

(Prior Code, § 12.20.050) Penalty, see § 90.999

§ 90.999 PENALTY.

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

(B) Any person violating any provision of §§ 90.050 *et seq.*, except § 90.063, shall be, upon conviction or a plea of guilty, subject to a fine not to exceed \$100.
(Prior Code, § 12.16.210) (Ord. 71, passed - -1983)

CHAPTER 91: ANIMALS

Section

General Provisions

- 91.01 Definitions
- 91.02 License fees
- 91.03 Conditions for a dog license
- 91.04 Rabies vaccinations; out-of-state animals
- 91.05 Certificates and tags
- 91.06 Quarantine
- 91.07 Disturbance of peace by animals
- 91.08 Female dogs in heat
- 91.09 Running at large prohibited
- 91.10 Right of entry in pursuit
- 91.11 Impoundment; disposition; charges and fees
- 91.12 Releasing sheltered animals
- 91.13 Vicious, dangerous, endangered and exotic animals

Livestock

- 91.25 Keeping; when permitted
- 91.26 Premises to be kept sanitary
- 91.27 Running at large prohibited

GENERAL PROVISIONS

§ 91.01 DEFINITIONS.

Words, when used in this chapter, unless the context otherwise plainly refers, shall have the meaning indicated:

AT LARGE. Off or outside of the premises belonging to the owner or keeper of the dog and not under the control of such owner, possessor or keeper, or immediate family, by means of a leash, cord or chain not to exceed 10 feet in length, provided that an unleashed dog off the owner's premises shall not be deemed at large if he or she is under the immediate control of the owner or his or her agent.

DOG. Any member of the canine family, both male and female.

LEASH. A cord, thong or chain not more than 10 feet in length by which a dog is controlled by the person accompanying it.

OWNER. A person owning, keeping or harboring a dog; the occupant of any premises to which a dog customarily returns is presumed to be the owner.

PREMISES. The dwelling house and outbuildings and the lot or tract of land on which the same are situated, and shall include an automobile or other vehicle in which the owner of the dog shall be an occupant or of which he or she shall have control, or in which any dog shall be situated with the consent of the owner of the vehicle.

QUALIFIED PERSON. Any person granted a permit by the Governing Body of the city to vaccinate animals against rabies.

VACCINATION. The injection by a veterinarian or other qualified person of vaccine approved by, and administered in accordance with, the provisions of this chapter and the resolutions of the Governing Body of the city.

VETERINARIAN. Any licensed practitioner of veterinary medicine licensed to practice such profession in the state.

(Prior Code, § 6.08.010) (Ord. 111, passed - -1993)

Cross-reference:

For definition of vicious, dangerous, endangered and exotic animals, see § 91.13

§ 91.02 LICENSE FEES.

There is imposed upon each dog and cat more than 6 months old, kept within the city limits, a yearly license fee of \$10 for each dog or cat. The license fee is due and shall be paid on or before May 1 of each year.

(Prior Code, § 6.08.020) (Ord. 111, passed - -1993)

§ 91.03 CONDITIONS FOR A DOG LICENSE.

As a condition to the issuance of a dog license, the person making such application shall furnish a certificate from a licensed veterinarian that the dog sought to be licensed has been vaccinated for and made immune to rabies within the previous year.

(Prior Code, § 6.08.030) (Ord. 111, passed - -1993)

§ 91.04 RABIES VACCINATIONS; OUT-OF-STATE ANIMALS.

(A) *Rabies vaccinations.* On or before May 1 of each year, every owner shall have his or her dog or cat vaccinated against rabies, except that in all cases where an animal shall have been properly vaccinated with the type of vaccine known as the modified live virus of chick embryo origin or other type of vaccination having a longer immunization period and approved by resolution of the Governing Body of the city, the vaccination required by this section need not be repeated during the time for which the dog is effectively immunized as determined by the veterinarian or other qualified person granting a permit under this chapter.

(B) *Out-of-state animals.* Any owner who has had his or her dog vaccinated against rabies in another state or municipality by the proper authority therein shall not be required to have the dog revaccinated during their current year when brought into this municipality, provided that the requirements of the state or municipality under which the vaccination was made were of a standard which is equal or greater than those required by this chapter, and further provided that the dog wears a tag affixed to his or her collar or harness bearing the date of the vaccination.
(Prior Code, § 6.08.040) (Ord. 111, passed - -1993) Penalty, see § 10.99

§ 91.05 CERTIFICATES AND TAGS.

(A) A veterinarian or qualified person who vaccinates the dog shall issue to the owner thereof a vaccination certificate. The vaccination certificate shall be prepared and issued in triplicate: 1 copy is to be retained by the issuing veterinarian or other qualified person, a second shall be given to the City Finance Office and the third may be kept by the dog's owner. Each certificate shall bear the name and address of the veterinarian or other qualified person who issued it and a statement containing the description and the kind and name of the dog immunized, the type of vaccine used, the date of the vaccination, the date on which the period of effective immunization will expire and the serial number.

(B) The veterinarian or qualified person shall also furnish each owner with a metal tag bearing the certificate number and the year of vaccination. The tag shall be affixed by the owner of the dog to the collar or harness of the dog for which the certificate was issued. No one except the owner or his or her duly authorized agent shall remove the collar with the attached tag from the dog.
(Prior Code, § 6.08.050) (Ord. 111, passed - -1993)

§ 91.06 QUARANTINE.

(A) Whenever the Governing Body of the city or the Health Officer thereof has reason to believe that there is danger that rabies may spread within the municipality, the Board shall publish a notice requiring owners of dogs, and other specified animals in the area designated, to confine the animals for a period as may be necessary to prevent the spread of rabies. The Board of Health, or Health Officer appointed by the Governing Body of the city, or the Governing Body, shall have the authority to

quarantine for a period not to exceed 90 days, any animal bitten by another animal known or suspected to have rabies, and to quarantine for a period not to exceed 15 days, any animal which has bitten a human being or which exhibits symptoms of rabies.

(B) Whenever a dog dies with rabies or is destroyed because of its having been suspected of being rabid, the owner thereof, whether the dog has been previously quarantined or not, shall at his or her own expense, send the head of the dog to a proper laboratory for examination.

(C) Any confinement imposed shall be by a chain, and not a rope, of sufficient strength to hold such an animal. Under these circumstances, any animal not confined is declared to be a nuisance. (Prior Code, § 6.08.060) (Ord. 111, passed - -1993) Penalty, see § 10.99

§ 91.07 DISTURBANCE OF PEACE BY ANIMALS.

(A) The owner of an animal shall not allow the animal to disturb the peace and quiet of the neighborhood, also construed to mean the city. Upon complaint, the owner will be notified by a law enforcement officer and the owner shall abate the nuisance. If the owner fails to abate the nuisance, the owner will be in violation of this section each day that the condition is allowed to exist remains uncorrected.

(B) Regardless of whether a complaint is made, if an animal can be heard at the edge of the property line, or if on public property can be heard from 50 feet away, a law enforcement officer shall be authorized to notify the owner to abate the nuisance or be in violation of this section.

(C) Any law enforcement officer shall be authorized to remove and impound any animal which is disturbing the peace when the owner cannot be located. A notice advising the owner of the impoundment shall be left on the premises. (Prior Code, § 6.08.070) (Ord. 111, passed - -1993; Am. Ord. 188, passed 11-7-2005) Penalty, see § 10.99

§ 91.08 FEMALE DOGS IN HEAT.

All female dogs kept within the city during periods of heat shall be confined to the premises of the owner, or if taken from such premises, shall be kept upon a leash. (Prior Code, § 6.08.080) (Ord. 111, passed - -1993) Penalty, see § 10.99

§ 91.09 RUNNING AT LARGE PROHIBITED.

(A) No owner of any animal held as a domestic pet in the city shall permit the animal to run or be at large at any time. Any such animal found at large may be impounded. Upon impounding, the owner of the animal may at any time within 4 working days after the same shall have been impounded, reclaim

the animal by paying the expense of keeping such animal. No animal shall be released to its owner or any other person unless such person shall provide proof of vaccination. If any animal so impounded shall not be reclaimed within 4 working days and all reasonable efforts to locate the owner have failed, the city is authorized to destroy, sell or otherwise dispose of the animal.

(B) Any owner allowing their animal to run at large shall be guilty of a misdemeanor.

(C) For the purpose of this chapter, an animal shall be deemed **AT LARGE** if it is off the owner's property and is neither leashed nor restrained by a kennel.

(Prior Code, § 6.08.090) (Ord. 111, passed - -1993; Am. Ord. 188, passed 11-7-2005) Penalty, see § 10.99

§ 91.10 RIGHT OF ENTRY IN PURSUIT.

(A) When in immediate pursuit of any dog found to be at large in the city, a city police officer or other person designated by the Governing Body to apprehend offending dogs, may enter upon the premises of the owner of the offending dog for the purpose of apprehending such dog, provided that, for purposes of this section, the word premises shall not be construed to include the inside of any dwelling or any other building.

(B) Any Animal Control Officer appointed by the Chief of Police shall be defined as an agent of the city, or as an enforcing officer, both of which shall have power under this title. The Chief of Police may choose himself or herself when filling this post.

(Prior Code, § 6.08.100) (Ord. 111, passed - -1993)

§ 91.11 IMPOUNDMENT; DISPOSITION; CHARGES AND FEES.

(A) *Impoundment of dogs.*

(1) Any dog found in the city in violation of any of the provisions of this chapter shall be impounded by any police officer of the city or by any person appointed by the Governing Body of the city as its agent and employee for that purpose and placed in the city animal pound or other suitable place provided by the city for that purpose. The Chief of Police or any officer of the Police Department or the Animal Control Officer appointed by the Governing Body shall, within 24 hours following the impounding of such dog, notify the owner of the animal's having been impounded and of its confinement in the custody of the city. If the owner of the animal is unknown, the police officer shall post written notice in the City Finance Office, describing the animal and stating a time and place where the animal was apprehended, and how the same may be recovered by the owner.

(2) Unless the dog is recovered and all charges paid for its upkeep by the owner or person having charge thereof, and unless the dog is registered and licensed as provided by this code, it shall be destroyed or disposed of in the most humane manner possible after the expiration of 4 days from the time

when notice is posted stating that the dog was apprehended and impounded; provided, however, that any dog which has been diagnosed by a licensed veterinarian to be suffering from rabies or any dangerous contagious disease, the animal shall be immediately destroyed.

(3) The Chief of Police or any Animal Control Officer appointed by the Governing Body shall collect a sum to be determined by the City Council for each dog impounded and the additional sum per day, for keeping any dog which has been apprehended or impounded, and the officer shall not release any dog until the charges have been paid, and until the dog has been duly registered and licensed, if need be, as provided by this title.

(Prior Code, § 6.08.110)

(B) *Impoundment of cats.*

(1) *Authority to catch and impound.* The city police officer or an Animal Control Officer of the city is authorized, upon complaint of a resident of said city, to catch upon the property of the complainant, such cats as may be causing a nuisance thereon and impound the cats in a suitable place for the care of the animal.

(2) *Impoundment, notice and disposal authority for identified cats.* Upon impoundment of a cat with identification, the Animal Control Officer shall, within 24 hours of the impoundment, notify the owner of the cat's impoundment, how the cat may be recovered, and that it must be picked up within 4 days or the cat will be disposed of or destroyed in the most humane way possible.

(3) *Impoundment notice and disposal authority for unclaimed cats.* Upon impoundment of a cat without identification, the Animal Control Officer shall post a written notice at the city finance office describing the cat and stating the approximate time and place where the cat was apprehended, and how the same may be recovered by owner. Unless recovered by the owner, the cat may be sold or destroyed in the most humane manner possible after the expiration of 4 days from the time when notice of apprehension and impoundment was given or posted.

(4) *Fees for keeping impounded cats.* The Chief of Police or any Animal Control Officer appointed by the Governing Body shall collect a sum to be determined by the City Council for each cat impounded and the additional sum per day, for keeping any cat which has been apprehended or impounded, and the officer shall not release any cat until such charges have been paid, and until the cat has been duly registered and licensed.

(5) *Cats with contagious diseases.* Any cat which has been diagnosed by a licensed veterinarian to be suffering from rabies or a dangerous contagious disease shall not be released, but may be destroyed forthwith or otherwise held or disposed of according to the recommendation of the veterinarian.

(Prior Code, § 6.08.120)

(Ord. 111, passed - -1993)

§ 91.12 RELEASING SHELTERED ANIMALS.

No person shall unlawfully release, or assist in releasing, any dog, cat or other animal from the city impoundment facility. A violation of this section shall be punishable by a maximum fine of \$100. (Prior Code, § 6.08.130) (Ord. 111, passed - -1993)

§ 91.13 VICIOUS, DANGEROUS, ENDANGERED, AND EXOTIC ANIMALS.

(A) *Generally.* No person shall keep or have under their control any vicious, dangerous, or endangered animal.

(B) *Permit.* Any person intending to keep or have under his or her control an exotic animal shall first obtain a permit from the city. The permit shall be issued only after the City Council member determines the animal does not constitute a danger to human life or property if it escapes from secure quarters, and does not pose a health risk to humans or to other animals.

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

DANGEROUS ANIMAL.

(a) Any mammal, reptile or fowl which is not naturally tame or gentle, but is of a wild nature or disposition, and which because of its size, nature, or other characteristics (such as being poisonous or carnivorous) would constitute a danger to human life or property if it escaped from secure quarters; or

(b) Any domestic mammal, reptile or fowl which because of its size or vicious propensity or other characteristics would constitute a danger to human life or property if it escaped from secure quarters.

ENDANGERED ANIMAL. Any animal classified by the appropriate federal authority as a threatened or endangered species.

EXOTIC ANIMAL. Any animal, excluding domesticated dogs and cats, which is not classified as vicious or dangerous, is generally considered a house pet, and may or may not be classified as domesticated. Examples include, but are not limited to birds, potbellied pigs, nonpoisonous snakes, and ferrets.

VICIOUS ANIMAL. Any animal which:

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

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

(c) Is kept or possessed primarily or in part for the purpose of fighting, or any animal trained for fighting;

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

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

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

(E) *Destruction or removal of animal after attack.* Any animal involved in an unprovoked attack which results in serious injury to any human, shall be impounded. If the animal cannot reasonably be captured, any law enforcement officer is authorized to destroy the animal to prevent further endangerment to human life. Any animal impounded for an unprovoked attack which results in injury to any human, shall be destroyed, or at the discretion of the City Council, may be placed at a home outside of the city. No vicious or dangerous animal shall be returned to reside in the city.

(Ord. 188, passed 11-7-2005) Penalty, see § 10.99

LIVESTOCK**§ 91.25 KEEPING; WHEN PERMITTED.**

(A) No person shall be permitted to keep livestock of any kind within the corporate limits of the city except when the livestock is temporarily kept in connection with the buying or selling of the same at a licensed sales pavilion or livestock auction.

(B) Horses may be kept within the corporate limits of the city if they are kept at least 300 feet from any dwelling house, excluding the dwelling house of the owner of the horses.

(Prior Code, § 6.04.010) (Ord. 122, passed - -1993; Am. Ord. 193, passed 10-16-2006) Penalty, see § 10.99

§ 91.26 PREMISES TO BE KEPT SANITARY.

Any person who under the provisions of this chapter is permitted to keep livestock within the corporate city, shall keep the premises on which the livestock is situated in a sanitary and healthful condition, and control noxious odors, flies and other pests thereon.

(Prior Code, § 6.04.020) Penalty, see § 10.99

§ 91.27 RUNNING AT LARGE PROHIBITED.

Anyone having livestock within the corporate limits of the city shall keep the same from running at large and shall be subjected to a \$25 fine for each animal that is allowed to run at large.

(Prior Code, § 6.04.030) (Am. Ord. 193, passed 10-16-2006)

CHAPTER 92: PARKS AND PUBLIC PLACES

Section

City Park

- 92.01 Definition
- 92.02 Hours; exceptions
- 92.03 Enforcement

Sales Pavilion

- 92.20 Possible location
- 92.21 Sanitary condition required
- 92.22 Inspection; violation

- 92.99 Penalty

CITY PARK

§ 92.01 DEFINITION.

The area defined in this chapter and commonly referred to as the city park shall be all the city-owned land in the area bounded on the south by Eleventh Street, on the west by Highway 47, on the east by Church Street and on the north by Fourteenth Street.

(Prior Code, § 12.28.010) (Ord. 74A, passed - -1984)

§ 92.02 HOURS; EXCEPTIONS.

The city park shall be closed at 11:00 p.m. and opened at 6:00 a.m. Monday through Sunday except for approved activities that run past the 11:00 p.m. closing deadline or start before the 6:00 a.m. opening time. Approved activities include all regularly scheduled, organized baseball and softball games and any other activities so approved by the City Council. As soon as any approved activity, running over the closing deadline, is finished, the park will be closed.

(Prior Code, § 12.28.020) (Ord. 74A, passed - -1984) Penalty, see § 92.99

§ 92.03 ENFORCEMENT.

The Police Department shall have the responsibility to open and close the city park entrances and to enforce this chapter.

(Prior Code, § 12.28.030) (Ord. 74A, passed - -1984)

SALES PAVILION**§ 92.20 POSSIBLE LOCATION.**

Block 82 of the city may be used for the establishment and maintenance of a sales pavilion within the city.

(Prior Code, § 12.32.010)

§ 92.21 SANITARY CONDITION REQUIRED.

In case the block is used as a sales pavilion, the same shall be kept in a clean and sanitary condition, and all refuse and manure accumulations therein shall be promptly removed.

(Prior Code, § 12.32.020)

§ 92.22 INSPECTION; VIOLATION.

The President of the Board of Health, Chief of Police or Mayor is authorized and directed to visit the sales pavilion, and if it is found that it is in an unclean or unsanitary condition, he or she shall notify the owner or person maintaining the same, and such owner or person maintaining the same shall cause the same to be cleaned within 24 hours, and in case the owner or person maintaining the same fails so to do, he or she shall be guilty of a misdemeanor.

(Prior Code, § 12.32.030)

§ 92.99 PENALTY.

All persons found in violation of §§ 92.01 through 92.03 shall be fined a minimum amount of \$25.

(Prior Code, § 12.28.040) (Ord. 74A, passed - -1984)

CHAPTER 93: ABANDONED VEHICLES

Section

General Provisions

- 93.01 Definitions
- 93.02 Storing, parking or leaving; declaration of nuisance; exceptions

Abandoned, Wrecked, Dismantled or Inoperable Motor Vehicles on Public Property

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- 93.21 Removal
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Abandoned, Wrecked, Dismantled or Inoperable Motor Vehicles on Private Property

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 - 93.50 Notice of sale
 - 93.51 Title may vest in city; when
-
- 93.99 Penalty

GENERAL PROVISIONS**§ 93.01 DEFINITIONS.**

For the purposes of this chapter, the following terms, phrases words and their derivations shall have the meaning given herein:

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

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

CITY. The City of Gregory.

INOPERABLE VEHICLE. Any motor vehicle, as herein defined, which has not physically moved 25 feet in a 6-month period, or which is not in operating condition due to damage or removal or inoperability of 1 or more tires and wheels, damage or removal or inoperability of the engine or other essential parts required for the operation of the vehicle, or which does not have lawfully affixed thereto a valid state license plate or which constitutes an immediate health, safety, fire or traffic hazard.

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

MOTOR VEHICLE. Any vehicle which is designed to travel along, or on the ground or water and shall include, but not be limited to, automobiles, buses, motorbikes, motorcycles, including 3-wheel or all-terrain vehicles, motor scooters, snowmobiles, trucks, tractors, go-carts, golf carts, campers, trailers, boats, jet skis and farm equipment.

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

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

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

(Ord. 179, passed 2-27-2004)

§ 93.02 STORING, PARKING OR LEAVING; DECLARATION OF NUISANCE; EXCEPTIONS.

The presence of an abandoned, wrecked, dismantled, inoperable, junked or partially dismantled motor vehicle or parts thereof on private or public property is a public nuisance which may be abated as such in accordance with the provisions of this chapter. This section shall not apply to any motor vehicle enclosed within a building on private property or to any motor vehicle in connection with a business enterprise, lawfully licensed by the city and properly operated in the appropriate business zone, pursuant to the zoning laws of the city. A motor vehicle in operable condition specifically adopted or designed for operation on drag strips or raceways, covered by an appropriate fence or building to screen it from view during non-racing seasons, may be kept on private property. A motor vehicle in operating condition retained by the owner for antique collection purposes, covered by an appropriate fence or building to screen it from view may be kept on private property. All other motor vehicles must be in an appropriate enclosed building or fenced area with the vehicles out of public view.

(Ord. 179, passed 2-27-2004) Penalty, see § 93.99

***ABANDONED, WRECKED, DISMANTLED, OR INOPERABLE
MOTOR VEHICLES ON PUBLIC PROPERTY*****§ 93.20 PROHIBITION.**

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

(Ord. 179, passed 2-27-2004) Penalty, see § 93.99

§ 93.21 REMOVAL.

Whenever any police officer finds an abandoned motor vehicle or an unattended motor vehicle which is in a wrecked, dismantled, inoperable, junked or partially dismantled condition on public property within the city, he or she shall place on the vehicle a notice to remove in 24 hours or the vehicle will be towed. If the vehicle is not removed within the 24 hour time limit, the police officers are authorized to provide for the removal of the motor vehicle to a garage or place of safety as designated by the city. A motor may be removed at any time under the direction of the Police Department.

(Ord. 179, passed 2-27-2004) Penalty, see § 93.99

§ 93.22 NOTICE TO OWNER.

(A) It is the duty of the Police Department to notify, by certified mail or by personal delivery, the registered owner, if known, and if encumbered, the lien holder, of the removal and storage of any motor vehicle under the provisions of this chapter and where such motor vehicle has been stored. If the owner or his or her address is unknown, a notice of removal and storage shall be given by the county. If the owner, for whatever reason is not contacted after reasonable efforts have been made to contact him or her, a notice of removal and storage shall be given by 1 publication in a newspaper of general circulation in the county.

(B) The notice shall set forth the date and place of the taking, the year, the make, model and serial number of the abandoned or wrecked motor vehicle and the place where the vehicle is being held, and shall inform the owner and any lien holders of their right to reclaim their vehicles.

(Ord. 179, passed 2-27-2004)

§ 93.23 SALE OF UNCLAIMED MOTOR VEHICLE.

If, after 60 days from the date of mailing or publishing notice of removal and storage provided for by this chapter, the motor vehicle shall remain unclaimed, the motor vehicle may be sold by the Police Department at public auction upon notice of sale to be published in a newspaper of general circulation in the county not less than once a week for 2 consecutive weeks. The removal agency shall have the rights and obligations conferred upon it by SDCL Ch. 32-36 in regard to titling or disposition of the unclaimed, abandoned or inoperable vehicle, except that, if not otherwise provided by state law, it shall have a possession lien upon any vehicle removed under the provisions of this section for the costs or reasonable charges in taking custody of and storing the vehicles.

(Ord. 179, passed 2-27-2004)

§ 93.24 NOTICE OF SALE.

The notice of sale provided for by this chapter shall contain a description of the removed and stored motor vehicle, including the year, make, model, serial number, color, license number, if any; a statement that the motor vehicle was found abandoned, the date thereof, and the place, date and time at which such motor vehicle shall be sold, which date shall not be sooner than 1 week following the date of the last publication of notice.

(Ord. 179, passed 2-27-2004)

§ 93.25 LIEN FOR COSTS.

The city shall have a possessor lien upon any motor vehicle removed under the provisions of this chapter for the costs in taking custody, including towing and storing, of the motor vehicle.

(Ord. 179, passed 2-27-2004)

§ 93.26 TITLE MAY VEST IN CITY; WHEN.

If, after 60 days from the date of mailing or publishing the notice of removal and storage provided for by this chapter, the motor vehicle shall remain unclaimed, the title to the motor vehicle may be disposed of as set out above. The proceeds of any such disposal shall first be applied to the costs incurred in the enforcement of this chapter with the balance to be deposited to the general fund of the city. The removal agency shall have the rights and obligations conferred upon it by SDCL Ch. 32-36 in regard to titling or disposition of such unclaimed, abandoned or inoperative vehicle, except that, if not otherwise provided by state law, it shall have a possession lien upon any vehicle removed under provision of this section for the costs for reasonable charges in taking custody of, including towing and storing such vehicle.

(Ord. 179, passed 2-27-2004)

§ 93.27 CITATION.

If a vehicle as described above is located upon public property and the police officer gives notice of removal within 24 hours and the vehicle is not removed, the police officer shall then arrange for immediate removal of the vehicle and issue a citation to the owner, lessee, or person having possession of the motor vehicle.

(Ord. 179, passed 2-27-2004)

***ABANDONED, WRECKED, DISMANTLED OR INOPERABLE
MOTOR VEHICLES ON PRIVATE PROPERTY***

§ 93.40 DUTY OF PRIVATE PROPERTY OWNERS.

No person owning, in charge of or in control of any real property within the city, whether as owner, tenant, occupant, lessee or otherwise, shall allow any wrecked, dismantled, inoperable, junked or partially dismantled motor vehicle of any kind to remain on such property longer than 5 years.

(Ord. 179, passed 2-27-2004) Penalty, see § 93.99

§ 93.41 NOTICE TO REMOVE.

Whenever it comes to the attention of the Police Department or the Code Enforcement Officer that any person has a wrecked, dismantled, inoperable, junked, or partially dismantled motor vehicle on his or her property, a notice in writing shall be served upon such person requesting the removal of the motor vehicle within 5 days or the notice may be served by certified mailing requesting the removal of the

motor vehicle within 7 days. After notice to remove is given and the vehicle is not moved within the allotted day period, the city may remove the vehicle and the owner, tenant, occupant, lessee or possessor shall be responsible for the towing charges and storage costs that might be incurred by the city.
(Ord. 179, passed 2-27-2004)

§ 93.42 RESPONSIBILITY FOR REMOVAL.

Upon proper notice, the owner, lessee or possessor of the wrecked, dismantled, inoperable, junked or partially dismantled motor vehicle and the owner or occupant of the private property on which the same is located, either or all of them, shall be responsible for its removal.
(Ord. 179, passed 2-27-2004)

§ 93.43 NOTICE PROCEDURE.

The Police Department or the Code Enforcement Officer shall give notice of removal to the owner or occupant of the private property where it is located. It shall constitute sufficient notice when a copy of same is sent by certified mail or personally delivered to the owner or occupant of the private property at his or her last known address.
(Ord. 179, passed 2-27-2004)

§ 93.44 CONTENT OF NOTICE.

The notice shall contain the request for removal within 7 days after the mailing of the notice by certified mail or within 5 days if the notice is served personally upon the owner or occupant of the private property, and the notice shall advise that failure to comply with the notice to remove shall be a violation of this chapter.
(Ord. 179, passed 2-27-2004)

§ 93.45 RACING VEHICLES OR ANTIQUE VEHICLES.

No owner or occupant of private property shall have a motor vehicle specifically adopted or designed for operation on the drag strips or raceways or a motor vehicle retained on private property for antique collection purposes unless the race cars or antique vehicles are either parked inside of a building or shall be parked behind a fence shielding from public view.
(Ord. 179, passed 2-27-2004) Penalty, see § 93.99

§ 93.46 REMOVAL.

If the vehicle is not removed within the period of time allotted in the notice described above; then the police officers are authorized to provide for the removal of the motor vehicle to a garage or place of safety as designated by the city.

(Ord. 179, passed 2-27-2004)

§ 93.47 NOTICE TO OWNER.

After the removal of the vehicle to a garage or place of safety as designated by the city, it shall be the duty of the Police Department or the Code Enforcement Officer to notify, by certified mail or by personal delivery, the registered owner, if known, and if encumbered, the lien holder, of the removal and storage of any motor vehicle under the provisions of this chapter and where the motor vehicle has been stored. If the owner or his or her mailing address is unknown, a notice of removal and storage shall be given by 1 publication in a newspaper of general circulation in the county. If the owner, for whatever reason, is not contacted after reasonable efforts have been made to contact him or her, a notice of removal and storage shall be given by 1 publication in a newspaper of general circulation in the county.

(Ord. 179, passed 2-27-2004)

§ 93.48 CONTENTS OF NOTICE.

The notice shall set forth the date and place of the taking, the year, the make, model and serial number of the abandoned or wrecked motor vehicle and the place where the vehicle is being held, and shall inform the owner and any lien holders of their rights to reclaim the vehicle.

(Ord. 179, passed 2-27-2004)

§ 93.49 SALE OF UNCLAIMED MOTOR VEHICLES.

If, after 30 days from the date of mailing or publishing a notice of removal and storage provided by this chapter, the motor vehicle shall remain unclaimed, the motor vehicle may be sold by the Police Department at public auction upon notice to be published in a newspaper of general circulation in the county not less than once a week for 2 consecutive weeks.

(Ord. 179, passed 2-27-2004)

§ 93.50 NOTICE OF SALE.

The notice of sale provided for by this chapter shall contain a description of the removed and stored motor vehicle, including the year, make, model, serial number, color, license number, if any; a statement that the motor vehicle was removed from private property and is wrecked, dismantled, or inoperative, the date of the removal thereof, and the place, date and time at which the motor vehicle shall be sold, which date shall not be sooner than 1 week following the date of the last publication of notice. (Ord. 179, passed 2-27-2004)

§ 93.51 TITLE MAY VEST IN CITY; WHEN.

If, after 30 days from the date of mailing or publishing the notice of removal and storage provided for by this chapter, the motor vehicle shall remain unclaimed, the title to the motor vehicle shall be vested in the city and such motor vehicle may be disposed of in any manner as may be provided by the City Council. The proceeds of any disposal shall first be applied to the costs incurred in the enforcement of this chapter with the balance to be deposited to the general fund of the city. The removal agency shall have the rights and obligations conferred upon it by SDCL Ch. 32-36 in regard to inoperative vehicle, except that, if not otherwise provided by state law, it shall have a possession lien upon any vehicle removed under provision of this section for the costs for reasonable charges in taking custody of, including towing and storing such vehicle. (Ord. 179, passed 2-27-2004)

§ 93.99 PENALTY.

Any person violating any of the provisions of this chapter shall be guilty of municipal ordinance violation punishable by a fine not to exceed \$200 and each and every day that the violation continues shall constitute a separate offense. (Ord. 179, passed 2-27-2004)

CHAPTER 94: FIRE PREVENTION; FIREWORKS

Section

Fire Prevention Regulations

- 94.01 Fire limits
- 94.02 Outdoor burning
- 94.03 Construction of chimneys; inspection
- 94.04 Buildings

Fireworks

- 94.20 Definition
- 94.21 Discharge
- 94.22 Applicability of provisions
- 94.23 Emergency ban by the City Council

- 94.99 Penalty

FIRE PREVENTION REGULATIONS

§ 94.01 FIRE LIMITS.

The fire limits of the city are defined as follows: all of Block 46 except the east 70 feet of Lots 4, 5 and 6; all of Block 52; all of Block 53; all of Block 61 except the east 60 feet of Lots 7-8, the west 80 feet of Lots 7-8, the north 15 feet of the east 35 feet of Lot 9, the east 35 feet of Lot 10, the south 10 feet of the east 35 feet of Lot 9, the west 105 feet of Lots 9-10, Lot 11, 12, Lots 13, 14, the south 10 feet of Lot 15; east ½ of Block 66; west ½ of Block 67; west ½ of Block 74; east ½ of Block 75; east ½ of Block 80; all of Block 81 except Lots 1-2; all of Block 88; east ½ of Block 89; all commercial property bordering Highway 18 and going back 300 feet from the curblines of Highway 18 unless stopped by residential property lines. Starting at the west city limits with its intersection with Highway 18 and ending with the intersection of Highway 18 and the part of south ½ northeast ¼ of highway less Lot H-3.

(Prior Code, § 8.14.010) (Ord. 98, passed - -1992)

§ 94.02 OUTDOOR BURNING.

(A) The outside burning of trash within the fire limits of the city, defined in § 94.01, is unlawful.

(B) It is unlawful for the owner or tenant of any premises within the corporate limits of the city to permit any burning of leaves, branches or garbage upon the premises under the control of the owners or tenants.

(C) Burning of small accumulations of trash, paper or rubbish is not prohibited by division (B) of this section so long as the burning is done near the rear lot lines of premises under the control of an owner or tenant and so long as the burning is done in safely constructed containers of not more than 50-gallon capacity; said containers are to be sturdily constructed and screened so as to restrict the escape of ashes and sparks.

(D) It is unlawful for any person to make or cause to be made any fire outside of the building owned or occupied by them, when the same may endanger the property of others or their safety, and the Fire Chief or Chief of Police shall have the power to suppress the same.

(Prior Code, § 8.14.020) Penalty, see § 94.99

§ 94.03 CONSTRUCTION OF CHIMNEYS; INSPECTION.

It is unlawful to construct chimneys on any building within the city of anything other than durable and fireproof materials, and the construction of the same shall be subject to the inspection and approval of city authorities.

(Prior Code, § 8.14.030) Penalty, see § 94.99

§ 94.04 BUILDINGS.

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

COMMERCIAL-TYPE BUILDING. Any building or structure used or designed for making profits or mass appeal of people.

RESIDENTIAL-TYPE BUILDING. Any building or structure used as a personal residence being occupied by a single person or a family.

(B) Within the limits of the fire district of the city, no person shall erect or establish or cause to be established, by removal or otherwise, any commercial use type building or addition to commercial building unless the commercial building or addition to building is made of materials that will have a 1-hour fire rating as stated in the Uniform Builders Code Book.

(C) All residential use type buildings located in the fire limits shall have a minimum of 10 feet in distance between all other buildings or structures.

(Prior Code, § 8.14.040) (Ord. 98, passed - -1992) Penalty, see § 94.99

FIREWORKS

§ 94.20 DEFINITION.

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

FIREWORKS. Includes firecrackers, torpedoes, skyrockets, aerial bombs, roman candles, sparkers and all kinds of fireworks whatsoever, as the term is commonly understood, but it shall not be held to include caps and cap pistols.

(Prior Code, § 8.18.010)

§ 94.21 DISCHARGE.

(A) It shall be lawful to sell and/or discharge legal fireworks within the corporate limits of the city only from June 27 through July 5 of each calendar year and it shall be lawful to sell and/or discharge legal fireworks only between the hours of 12:00 p.m. (noon) and 11:00 p.m.

(B) It shall be unlawful to discharge fireworks within the corporate limits of the city in such a way as to intentionally injure/wound persons or damage/destroy property.

(C) It shall be unlawful to discharge fireworks within the corporate limits of the city that create an unreasonable amount of noise over an extended period of time.

(D) It shall be unlawful to discharge fireworks within the corporate limits of the city in such a way as to cause an unreasonable amount of noise over an extended period of time.

(E) It shall be unlawful for fireworks to be discharged within the corporate limits of the city from any public rights-of-way, streets, alleys or public grounds without prior written approval from the city.

(Prior Code, § 8.18.020) (Am. Ord. 191, passed 10-16-2006) Penalty, see § 94.99

§ 94.22 APPLICABILITY OF PROVISIONS.

This subchapter shall have no application to the selling of fireworks to the city or to any of the civic organizations within the city, nor shall it apply to displays of fireworks sponsored by the city or civic organizations within the city.

(Prior Code, § 8.18.030)

§ 94.23 EMERGENCY BAN BY THE CITY COUNCIL.

In times of dry environmental conditions or similar disaster situations, the City Council may ban the sale and/or discharge of all fireworks by resolution.

(Ord. 191, passed 10-16-2006)

§ 94.99 PENALTY.

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

(B) (1) Any person that violates the restrictions set forth in §§ 94.20 *et seq.* will be subjected to a \$25 fine for each violation and/or all of the fireworks in the person's possession will be confiscated.

(2) When violations of §§ 94.20 *et seq.* have transpired on private property and the individual violators cannot be identified, the property's owner(s) or the property's tenant(s) can be held responsible and fined \$25 for each violation if the property's owner(s) or the property's tenant(s) knew of or should have known of the violations, but failed to report said violations to the city or its law enforcement personal.

(Ord. 191, passed 10-16-2006)

CHAPTER 95: HEALTH AND SANITATION; NUISANCES

Section

General Provisions

95.01 Nuisances defined

Weeds

95.20 Duty of property owner or occupant to keep weeds and other growths under control

95.21 Notice to destroy weeds and other growths; contents and procedures

95.22 Authority of city to destroy weeds or other growths upon failure or refusal of owner or occupant; charge against the property

95.23 Costs assessed

95.24 Recovery by city

GENERAL PROVISIONS

§ 95.01 NUISANCES DEFINED.

(A) No person shall create, commit, maintain, or permit to be created, committed or maintained, any nuisance as defined in this chapter, within the city limits.

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

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

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(3) *Undressed hides.* Undressed hides kept longer than 24 hours, except at the place where they are to be manufactured, or in a storeroom, or basement whose construction is approved by the Health Department;

(4) *Manure.* The accumulation of manure, unless it be in a properly constructed flyproof pit, bin or box;

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

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

(7) *Weeds.* Permitting weeds to grow to maturity on any private property, including vacant lots;

(8) *Dead animals.* For the owner of a dead animal to permit it to remain undisposed of longer than 24 hours after its death;

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

(10) *Garbage handled improperly.* Throwing or letting fall on or permitting to remain on any street, alley or public ground any manure, garbage, rubbish, filth, fuel or wood while engaged in handling or removing any such substance;

(11) *Rodents.* Accumulation of junk, old iron, automobiles or parts thereof, or anything whatever in which rodents may live, breed or accumulate. **JUNK** is defined to mean old ferrous or nonferrous metals, old cordage, ropes, fabrics, old rubber or old bottles or other glass, bones, wastepaper and other waste or materials which may be prepared to use again in some other form, but **JUNK** shall not include objects accumulated by a person as by-products, waste or scraps from the operation of his or her own business, or materials or objects held and used by a manufacturer as an integral part of his or her own manufacturing process;

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

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

(Prior Code, § 8.04.010) (Ord. 119, passed - -1993)

(C) It shall be unlawful to operate a dynamic braking device (commonly referred to as a Jacobs brake) on any motor vehicle. This device converts the internal combustion engine to an air compressor for the purpose of braking without the use of wheel brakes.

(Ord. 144, passed 7-21-1997)

Penalty, see § 10.99

WEEDS

§ 95.20 DUTY OF PROPERTY OWNER OR OCCUPANT TO KEEP WEEDS AND OTHER GROWTHS UNDER CONTROL.

No owner of any lot or property within the city limits, or any agent of such owner or occupant of such property, shall permit thereon or upon any sidewalk abutting the same or any abutting city right-of-way, commonly known as the City Boulevard, any weeds or grass growing to a height of greater than 8 inches. This section does not prohibit the cultivation of crops.

(Prior Code, § 8.08.010) (Ord. 120, passed - -1993; Am. Ord. 199, passed - -) Penalty, see § 10.99

§ 95.21 NOTICE TO DESTROY WEEDS AND OTHER GROWTHS; CONTENTS AND PROCEDURES.

(A) The City Administrator is hereby authorized and empowered at the beginning of, or during, the growing season to notify in writing, or by public notice, each owner, occupant, or person in charge of any such lot, place or area, to cut, destroy or remove any such weeds, grass or deleterious or unhealthful growths or other noxious matter found growing, lying or located on such property or upon the sidewalk abutting the same or the city's right-of-way abutting the same. Such notice shall be served to the owner, agent, or occupant at his or her last known address, or by 1 publication in the official newspaper, and shall notify the owner, agent or occupant to cut, destroy, or remove any such weeds, grass or deleterious or unhealthful matter within 5 days after the service of such notice or publication in the official newspaper.

(B) Only 1 notice will be served or published for each growing season.

(Prior Code, § 8.08.020) (Ord. 120, passed - -1993; Am. Ord. 199, passed - -)

§ 95.22 AUTHORITY OF CITY TO DESTROY WEEDS OR OTHER GROWTHS UPON FAILURE OR REFUSAL OF OWNER OR OCCUPANT; CHARGE AGAINST THE PROPERTY.

Upon failure, neglect or refusal of any owner, agent or occupant so notified to comply with the notice within 5 days thereof, the City Administrator is hereby authorized and empowered to provide for the cutting, destroying or removal of the weeds, grass or deleterious, unhealthful growths or other noxious matter to defray the cost of the destruction and the administrative costs by special assessment special assessment against the property provided in this chapter.

(Prior Code, § 8.08.030) (Ord. 120, passed - -1993; Am. Ord. 199, passed - -)

§ 95.23 COSTS ASSESSED.

The City Finance Officer shall cause an account to be kept against each lot for the destruction of noxious weeds upon the lot as provided in this chapter and shall thereupon certify the account showing the amount, the description of the property and the owner thereof to the City Council, which shall thereupon add the assessment to the county or general assessment against the property and shall certify the special assessment, together with the regular assessment 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, § 8.08.040) (Ord. 120, passed - -1993; Am. Ord. 199, passed - -)

§ 95.24 RECOVERY BY CITY.

In lieu of assessing the cost of the destruction of the noxious weeds and other deleterious matter against the property in the discretion of the City Council, the amount may be recovered in a civil action against the owner of the property.

(Prior Code, § 8.08.050) (Ord. 120, passed - -1993)

TITLE XI: BUSINESS REGULATIONS

Chapter

110. GENERAL PROVISIONS

CHAPTER 110: GENERAL PROVISIONS

Section

- 110.01 Alcohol; Sunday sales
- 110.02 Peddlers, solicitors and transient merchants
- 110.03 Junk dealers
- 110.04 Entertainment licenses

§ 110.01 ALCOHOL; SUNDAY SALES.

The holder of an off-sale liquor license within the city shall be able to sell liquor off-sale on Sundays during the hours permitted under South Dakota Codified Law.
(Ord. 169, passed - -2002)

§ 110.02 PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS.

(A) *Solicitation at residences and homes.*

(1) It is declared unlawful for any person to, for the purpose of soliciting the sale of any merchandise or service without having received an express invitation, go to any private home or residence within the city and disturb the privacy of any person residing therein by knocking on the door, loitering on the premises, sounding any doorbell or alarm, calling out, or by any other means.

(2) The term **MERCHANDISE** covers goods and wares of any kind, including among other things, stocks, insurance policies, investments, kitchenware, photographs and magazine subscriptions.
(Prior Code, § 5.12.010)

(B) *Transient merchants.*

(1) A transient merchant, upon procuring a license from the city, may carry on his or her business within the city except as prohibited by division (A) of this section.

(2) A **TRANSIENT MERCHANT** is defined as any person who goes from place to place carrying goods or furnishing services for the purpose of selling, trading or dealing in the same.
(Prior Code, § 5.12.020)

(C) *License.* The license fee for a transient merchant is \$40 a day, \$75 for a quarter of a year, or \$250 a year, but no license shall be required of any charitable or civic organization acting as a transient merchant, nor from any person selling his or her own farm produce.

(Prior Code, § 5.12.030)

Penalty, see § 10.99

§ 110.03 JUNK DEALERS.

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

JUNK DEALER. Includes any person who shall be engaged in the business of buying, selling, receiving, storing, collecting or dealing in scrap metal, secondhand parts of motor vehicles or machinery, or machinery which is being kept for the purpose of being dismantled or discarded, bottles, scrap rubber, rags, paper, bones or junk in general. In reference to used cars and secondhand parts of cars, this chapter shall not be deemed to apply to bona fide secondhand car dealers, but the mere fact that the owner or operator of the establishment reconditions or sells some secondhand cars shall not eliminate his or her establishment from the effects of this chapter.

RESIDENTIAL DISTRICT. Includes all those areas of the city which are principally for personal living quarters and residences of persons and families.

(Prior Code, § 5.08.010)

(B) *Regulations.*

(1) No junk dealer shall establish or engage in the business of a junk dealer as defined in this chapter in any location of the residential district of the city as defined in this chapter.

(2) Any junk dealer who, under the terms of this chapter, is permitted to carry on his or her business within the city shall see to it that none of his or her goods or materials shall be placed or allowed to stay upon any adjoining property, sidewalk, street or alley.

(3) Fences. All areas of junkyards within the city limits wherein junk is piled, kept or stored adjacent to or abutting a public street, sidewalk or alley shall be suitably fenced in with a good and sufficient wall of board, metal or masonry construction of not less than 5 feet in height.

(4) Owners of junkyards within the city shall provide that such areas do not become vermin-infested and that all fires burning in such yards are carefully attended and allowed to burn only during daylight hours.

(Prior Code, § 5.08.020)

Penalty, see § 10.99

§ 110.04 ENTERTAINMENT LICENSES.

(A) *License required.* No person shall operate any moving picture show or athletic contests of a transient nature, traveling circus, carnival or tent show, or similar entertainment, without first obtaining a license from the city.

(Prior Code, § 5.04.010)

(B) *Fee.* The license shall cost \$10, and as a condition to issuing such license the city may demand a further reasonable sum to compensate the city for the reasonable use of city streets or other city property, and to compensate the city for cleaning up the streets or premises used.

(Prior Code, § 5.04.020)

Penalty, see § 10.99

TITLE XIII: GENERAL OFFENSES

Chapter

130. GENERAL OFFENSES

CHAPTER 130: GENERAL OFFENSES

Section

- 130.01 Illegal acts; misdemeanors
- 130.02 Fraud and misrepresentations
- 130.03 Housing discrimination
- 130.04 Curfew hours; designated
- 130.05 Exceptions to the curfew
- 130.06 Parent's or guardian's responsibility

- 130.99 Penalty

§ 130.01 ILLEGAL ACTS; MISDEMEANORS.

The following acts are declared unlawful and are prohibited within the corporate limits of the city, and any persons committing any of the acts within the city shall be deemed to have committed a misdemeanor:

(A) To commit an assault;

(B) It is unlawful for any person, other than a law enforcement officer when acting as such, to:

(1) Carry a pistol or revolver, loaded or unloaded, concealed on or about his or her person without a state permit; or

(2) Carry a pistol or revolver, loaded or unloaded, concealed in any vehicle operated by him or her, without a state permit.

(C) To carry a switchblade knife;

(D) To gamble unless such form of gambling is permitted under state law. Only the forms of gambling that are permitted under state law are allowed in a gambling house. Only the type and forms of gambling that are permitted under state law are allowed in any place of business located in the city that is licensed to handle such type and forms of gambling;

(E) To discharge any firearms within the city without the permission of the Mayor;

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(F) To make an indecent exposure of the person;

(G) Disorderly conduct. To intentionally cause serious public inconvenience, annoyance or alarm to any other person, or create a risk thereof by:

(1) Engaging in fighting or in violent or threatening behavior;

(2) Making unreasonable noise;

(3) Disturbing any lawful assembly or meeting of persons without lawful authority; or

(4) Obstructing vehicular or pedestrian traffic.

(H) To keep a house of ill fame;

(I) To practice prostitution;

(J) To intentionally injure or destroy any sidewalk, crossing, traffic sign of any kind, city property at the park or auditorium or any other public property belonging to the city;

(K) To remove or destroy any monuments or stakes showing the location of lots in the city or any other property which belongs to the city;

(L) To resist or impede any officer of the city in the discharge of his or her duty;

(M) To create, permit or allow to remain any nuisance on premises owned or used by the occupant;

(N) To assist or encourage any prisoner to escape from an officer of the city or from the city jail;

(O) To refuse to assist an officer in making an arrest;

(P) To be cruel to animals;

(Q) To incite or cause a dog fight;

(R) To tamper with any city water or sewer lines without permission from city authorities; and

(S) To wilfully destroy or injure telephone or lighting equipment legally maintained in the city. (Prior Code, § 9.04.010) (Ord. 112, passed - -1993; Am. Ord. 113, passed - -1993; Am. Ord. 114, passed - -1993) Penalty, see § 130.99

§ 130.02 FRAUD AND MISREPRESENTATIONS.

(A) *Credit defined.* **CREDIT**, as used in this chapter, means an arrangement or understanding with the bank for the payment of a draft, check or order.

(Prior Code, § 9.08.010)

(B) *Checks.*

(1) It is unlawful for any person, with the intent to defraud, and for a present consideration, to draw and deliver to the person furnishing the consideration any draft, order for the payment of money, or check upon any bank, knowing at the time that he or she (the drawer) has not sufficient funds in or credit with the bank for the payment of the instrument in full upon its presentation.

(2) It is unlawful for any person, who, with the intent to defraud, shall after the drawing and delivery of any check, draft or order for the payment of money for a present consideration, countermand payment of the instrument, or withdraw from the bank upon which the instrument is drawn such a sum of money as will prevent the payment in full of the same upon presentation.

(3) The making and delivering of any currently dated check, draft or order for the payment of money upon any bank wherein the drawer shall not at the time of presentment for payment of any instrument have sufficient funds or credit with the bank for the payment of the same in full, shall be prima facie evidence of intent to defraud, and as against the drawer, of knowledge of insufficient funds or credits with the bank.

(Prior Code, § 9.08.020)

Penalty, see § 130.99

§ 130.03 HOUSING DISCRIMINATION.

(A) *Prohibited.* This section prohibits discrimination in the sale or rental of dwellings, discrimination in the financing of housing, blockbusting and discriminatory advertising and makes it unlawful to deny any person access to, or membership or participation in, any multiple listing service or real estate brokers' organization for discriminatory reasons.

(Prior Code, § 9.12.010)

(B) *Applicability of chapter.*

(1) This section is applicable to all dwellings except those which are specifically exempt.

(2) This section does not apply to the sale or rental of a single-family house by a private individual owner who does not own more than 3 such single-family houses at any time.

(3) This section does not apply to rooms or units in dwellings containing living quarters occupied by no more than 2 families living independently of each other if the owner occupies one of such quarters as his or her residence.

(Prior Code, § 9.12.020)

(C) *Handling of complaints.* This section authorizes the City Council to receive, investigate and conciliate complaints.

(Prior Code, § 9.12.030) (Ord. 115, passed - -1993) Penalty, see § 130.99

§ 130.04 CURFEW HOURS; DESIGNATED.

It shall be unlawful for any minor under the age of 18 years to loiter, idle, wander, stroll or play, ride in any motor vehicle, in or upon the public streets, highways, roads, alley, parks, public buildings, places of amusement and entertainment or other unsupervised places or any person that operates a business within the city shall not allow minors subject to the curfew to remain on the business premises after the curfew hours that are defined below.

(A) Between the hours of 10:30 p.m. and 6:00 a.m., official city time, on nights before regular school days; and

(B) Between the hours of 12:00 a.m. and 6:00 a.m., official city time, on nights when school is not in session on the following day.

(Prior Code, §§ 9.16.010, 9.16.020) (Am. Ord. 198, passed 4-2-2007) Penalty, see § 130.99

§ 130.05 EXCEPTIONS TO THE CURFEW.

The curfew hours do not apply to a minor who is:

(A) Accompanied by a minor's parent or guardian.

(B) On errand at the direction of the minor's parent or guardian, without any detour or stop.

(C) In a motor vehicle involved in interstate travel.

(D) Engaged in an employment activity, or going to or returning home from an employment activity, without detour or stop.

(E) Involved in an emergency.

(F) 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.

(G) Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization, or another 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.

(H) 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

(I) Married or had been married or had the disabilities of minority removed in accordance with state law.

(Am. Ord. 198, passed 4-2-2007)

§ 130.06 PARENT'S OR GUARDIAN'S RESPONSIBILITY.

It shall be unlawful for the parent, guardian or other adult person having the care and custody of a minor under the age of 18 years to knowingly permit the minor to loiter, idle, wander, stroll or play in or upon the public streets, highways, roads, alleys, parks, playgrounds, or other public grounds, public places and public buildings, places of amusement and entertainment, vacant lots, or other unsupervised places in violation of this chapter. The provisions of this section do not apply when any of the exceptions found in § 130.05 apply.

(Am. Ord. 198, passed 4-2-2007)

§ 130.99 PENALTY.

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

(B) Violations of any provisions of §§ 130.04 through 130.06 will be punished in accordance to a Class 2 misdemeanor.

(Prior Code, § 9.16.030) (Am. Ord. 198, passed 4-2-2007)

TITLE XV: LAND USAGE

Chapter

- 150. BUILDING REGULATIONS; CONSTRUCTION**
- 151. MOBILE HOMES AND PARKS; TRAILERS**
- 152. FLOOD HAZARD PROTECTION**
- 153. ZONING REGULATIONS**

CHAPTER 150: BUILDING REGULATIONS; CONSTRUCTION

Section

150.01 International Property Maintenance Code adopted; revisions

150.02 Dwelling places

150.99 Penalty

§ 150.01 INTERNATIONAL PROPERTY MAINTENANCE CODE ADOPTED; REVISIONS.

(A) A certain document, 3 copies of which are on file in the City Finance Office, being marked and designated as the *International Property Maintenance Code* as published by the International Code Council, Inc., be and is hereby adopted as the *Property Maintenance Code* of the city, for the control of buildings and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of the *Property Maintenance Code* are hereby referred to, adopted, and made a part hereof, as if fully set out in this section, with the additions, insertions, deletions and changes, if any, prescribed in division (B) of this section.

(B) The following sections are hereby revised:

- (1) Section 101.1. Insert: City of Gregory.
- (2) Section 103.6. Insert: The City Council shall set the appropriate fees by council resolution.
- (3) Section 303.14. Insert: May 1 to October 15.
- (4) Section 602.3. Insert: October 1 to May 1.
- (5) Section 602.4. Insert: October 1 to May 1.

(C) Nothing in this section or in the *Property Maintenance Code* hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in division (B) of this section; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this section.

(Ord. 178, passed 2-27-2004)

§ 150.02 DWELLING PLACES.*(A) Certain facilities required.*

(1) All buildings being used as dwelling places within the city limits shall have the following facilities:

- (a) Hot and cold running water;
- (b) Toilet facilities; and
- (c) Either a shower or a bathtub.

(2) The toilet facilities and shower or bath shall be kept in good working order and in good sanitary condition.

(Prior Code, § 15.08.010) (Ord. 104, passed - -1993)

(B) Complaint; inspection. Upon receiving a complaint of non-working or non-existent toilet facilities, an inspection team made up of the City Health Officer, city police officer; 1 Council Member; and the landowner or his or her representative shall inspect the dwelling place. The inspection visit shall be made after the owner of the residence is notified.

(Prior Code, § 15.08.020) (Ord. 104, passed - -1993)

Penalty, see § 150.99

§ 150.99 PENALTY.

Any violations of § 150.02 as noted in the inspection report shall be fixed within 30 days or the landowner will be fined \$10 a day until all the noted violations are fixed.

(Prior Code, § 15.08.030) (Ord. 104, passed - -1993)

CHAPTER 151: MOBILE HOMES AND PARKS; TRAILERS

Section

General Provisions

- 151.01 Definitions
- 151.02 Minimum area
- 151.03 Administration
- 151.04 Location outside parks
- 151.05 Permanent occupancy

Licensing and Permit Provisions; Inspections

- 151.20 License; application and issuance
- 151.21 Inspection fee
- 151.22 Grandfather clause
- 151.23 Plan submission
- 151.24 Placement permit
- 151.25 Annual compliance plan review

Regulations

- 151.40 Water supply and sanitary sewer
- 151.41 Refuse disposal
- 151.42 Plumbing, heating and electrical repair work
- 151.43 Skirting required
- 151.44 Additions
- 151.45 Register of occupants
- 151.46 Management, maintenance and control; owner
- 151.47 Fire extinguishers required
- 151.48 Unlawful occupancy

GENERAL PROVISIONS**§ 151.01 DEFINITIONS.**

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

MOBILE HOME. A detached single-family dwelling unit with all of the following characteristics:

(1) Designed for long-term occupancy, and containing sleeping accommodations, a flush toilet, a tub or shower bath, and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems.

(2) Designed to be transported after fabrication on its own wheels, or on flatbed or other trailers or detachable wheels.

(3) Arriving at the site where it is to be occupied as a dwelling complete, including major appliances and furniture, and ready for occupancy except for minor and incidental unpacking and assembly operations, location on foundation supports, connection to utilities, and the like.

MOBILE HOME PARK. Any park, trailer park, trailer court, camp, site, lot, parcel or tract of land designed, maintained or intended for the use of supplying a location or accommodation for two or more mobile homes, and upon which the mobile homes are parked permanently or temporarily, and shall include all buildings and utilities used or intended for use as part of the equipment thereof, whether a charge is made for the use of the trailer park and its facilities or not. **MOBILE HOME PARK** shall not include travel trailer parks or trailer sales lots.

TRAVEL TRAILER. A vehicular portable structure designed as a temporary dwelling for travel, recreational and vacation uses, which:

(1) Is identified on the unit by the manufacturer as a travel trailer;

(2) Is not more than 8 feet in body width;

(3) Can operate independent of connections to external sewer, water and electrical systems;

and

(4) Does not include automobiles, trucks or buses adapted for vacation use but not identified by the manufacturers as travel trailers.

TRAVEL TRAILER CAMPGROUND. Any plat or ground on which a camper, travel trailer, motor home or tent is located for short-term occupancy regardless of whether or not a charge is made for the accommodation. However, the definition shall not include the premises of one who stores thereon a single trailer of which he or she is the owner.

(Ord. 124, passed 2-7-1994)

§ 151.02 MINIMUM AREA.

No mobile home park as defined herein shall be located on any parcel of ground having surface area of less than 5 acres unless abutting an existing mobile home park. A minimum of 15 mobile home spaces must be provided for occupancy under the initial construction of a mobile home park to ensure that streets, parking and other facilities are completed for the first occupants.

(Ord. 124, passed 2-7-1994)

§ 151.03 ADMINISTRATION.

(A) The administration and enforcement of this chapter shall be under the supervision and jurisdiction of the Building Inspector.

(B) The Building Inspector shall have the right and is hereby empowered to enter upon any premises on which any mobile homes, travel trailers or campers are or about to be located and inspect the same and all accommodations connected therewith at any reasonable time.

(Ord. 124, passed 2-7-1994)

§ 151.04 LOCATION OUTSIDE PARKS.

(A) Except as otherwise provided, it shall be unlawful, within the limits of the city, to park any mobile home or travel trailer on any street, alley or highway, or other public place, or on any tract of land owned by any person occupied or unoccupied, within the city, except for persons now having located on his or her premises pursuant to a valid permit previously granted and except as provided in this chapter.

(B) No owner or occupant of a mobile home located or placed outside a licensed park in the city shall locate or install the same on any premises in the city without first having obtained a building permit therefor from the building official. The building official shall not issue a building permit to any applicant for the permit unless the applicant shall locate the mobile home on a permanent foundation on a lot or parcel of real property, meeting all the area requirements of a building lot for a single-family dwelling in the residential zone of the city, and shall locate the same on a lot fronting on a dedicated street and on the lot so as to meet all the requirements of the front, side and rear yard areas in a residential zone as provided by the zoning ordinance; and further provided that no permit shall be issued to any applicant

who shall not first have secured the written consent of 75% of the owners of real property located within 150 feet of any part of the premises upon which the mobile home shall be located. All mobile homes located in the city and outside a licensed park or campground shall be directly connected to the public water supply and to the public sanitary sewer outlet, or to a septic system in the event the same shall be more than 200 feet from any sewer outlet. The value of any mobile home, as installed, for which a permit is granted under this division shall not be less than \$1,000 less than the average full fair market value of the dwelling houses located within a 150-foot radius of any part of the lot or parcel on which any trailer shall be located, the values to be determined from the current tax record.

(C) Emergency or temporary stopping or parking is permitted on any street, alley, or highway for not longer than 1 hour subject to any other or further prohibitions, regulations, or limitations imposed by the traffic and parking regulations for that street, alley or highway.

(D) (1) No person shall park or occupy any mobile home or travel trailer on the premises of any occupied dwelling, or on any lot which is not a part of the premises of any occupied dwelling, either of which is situated outside an approved mobile home park or travel trailer campground; except the parking of only 1 unoccupied travel trailer in an accessory private garage building or in a rear yard in any district is permitted providing no living quarters shall be maintained or any business practiced in the travel trailer while so parked or stored.

(2) Temporary parking of an occupied or unoccupied travel trailer for a period not to exceed 7 consecutive days is permitted on private property.

(E) (1) It shall be lawful to locate 1 occupied mobile home on a mobile home sale lot, provided the mobile home shall be served by an approved public water supply and an approved sanitary system.

(2) Normal utility and inspection fees shall apply.

(3) Permission for the location of a mobile home may be granted by the building official which the sales lot is operated.

(Ord. 124, passed 2-7-1994)

§ 151.05 PERMANENT OCCUPANCY.

Mobile homes may be used as permanent places of abode or as permanent dwellings for an indefinite period of time only in the following cases:

(A) Where the mobile home is lawfully located and maintained in a licensed park as herein defined.

(B) Where the owner thereof shall locate and install the same on a permanent foundation on real property of which he or she shall be the owner or lessee.

(Ord. 124, passed 2-7-1994)

LICENSING AND PERMIT PROVISIONS; INSPECTIONS

§ 151.20 LICENSE; APPLICATION AND ISSUANCE.

(A) It shall be unlawful for any person to establish, operate or maintain or permit to be established, operated or maintained upon any property owned or controlled by him or her, a mobile home park or travel trailer campground within the limits of the city without having first secured a license for each of them from the city granted and existing in compliance with the terms of this chapter. All licenses shall expire on the first day of January of each year; but may be renewed under the provisions of this chapter for additional periods of 1 year. Each application for a license shall include a showing that the applicant's premises comply with this chapter or any amendment of the same, except as provided in state law. A license fee of \$50 or \$1 for each mobile home lot in the mobile home park whichever is greater shall accompany each application for a new license or the renewal of an existing license.

(B) The initial application for the license shall be made in conjunction with the building permit application. The renewal of the license shall be filed with the Finance Officer. The application for a license or a renewal thereof shall be made on printed forms furnished by the Finance Officer and shall include the name and address of the owner in fee of the tract, if the applicant, a duly verified statement by that person, that the applicant is authorized by him or her to construct or maintain the mobile home park and make the application and the legal description of the premises, upon which the mobile home park is or will be located as will readily identify and definitely locate the premises. The application shall be accompanied by 4 copies of the park plan showing the following, either existing or as proposed:

- (1) The extent and area used for park purposes;
 - (2) Roadways and driveways;
 - (3) Location of sites or units for mobile homes;
 - (4) Location and number of sanitary conveniences, including toilets, washrooms, laundries and utility rooms to be used by occupants;
 - (5) Method and plan of sewage disposal;
 - (6) Method and plan of garbage removal; and
 - (7) Plan for electrical power for units.
- (Ord. 124, passed 2-7-1994)

§ 151.21 INSPECTION FEE.

(A) Each mobile home moved onto a mobile home park lot shall be inspected by the Building Inspector and a \$5 inspection fee paid by the mobile home owner to the Finance Officer prior to occupancy of the mobile home. The inspection shall insure compliance with the provisions of this chapter.

(B) Licenses issued under the terms of this chapter convey no right to erect any building, to do any plumbing work or to do electrical work, and are not transferable.
(Ord. 124, passed 2-7-1994)

§ 151.22 GRANDFATHER CLAUSE.

(A) The following mobile home parks in existence on March 1, 1994 shall be exempt from the provisions of this chapter until 6 months after the mobile home parks are no longer used for mobile home parking: Brumbaugh Trailer Court described as the S 25 feet of Lot 5, Lot 6 of BLK 39; Nemer Trailer Court described as: E 90 feet of lots 15 to 18 of BLK 62; Shaffer Trailer Court described as: Lot A in SE $\frac{1}{4}$ NE $\frac{1}{4}$ less north part of E 123 feet in Sec. 13-97-73 Hills First Addition to City of Gregory; Harrison Trailer Court described as Lot B of Outlot in SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Sec. 13-97-73 in Hills First Addition to Gregory; Wendell Trailer Court described as Lot 3-12 in Logan Acre's Addition to Gregory. The grandfather clause will exempt any owner of the above named and described location of the property.

(B) In addition all existing mobile homes placed in the city limits prior to March 1, 1994 shall be exempt from the restrictions in this code that apply to them.
(Ord. 124, passed 2-7-1994)

§ 151.23 PLAN SUBMISSION.

The applicant for a mobile home park license shall submit with his or her application a plan of construction within the proposed park adhering to and observing the space limitations and requirements hereinafter prescribed and within a mobile home park, the following space regulations and other requirements shall apply:

(A) Area requirements:

- (1) Minimum lot area shall be 3,200 square feet.
- (2) Minimum lot width at building line shall be 35 feet.

(3) Minimum space between mobile homes shall be 10 feet if a 1-hour fire resistive wall 8 feet in height is constructed on the lot line between the front yard and rear yard lines. In the absence of a wall, the minimum space between mobile homes shall be 20 feet. Except, mobile homes located on lots within mobile home parks at the time of passage of this code shall be required to have a minimum distance between mobile homes or structures attached thereto of 16 feet so long as the mobile home remains on the same lot.

(4) Maximum projection of an attached structure to 1 side shall be 5 feet and a carport may be attached; the projections shall not be included in side yard measurements. Any projection other than the 2 above specified instances shall be counted in determining side yard requirements.

(5) Side yards and rear yards for the mobile home park shall be at least 25 feet; except, when adjacent to other mobile home parks or campgrounds or to zones other than R-1 and R-2, the side and rear yards shall be at least 10 feet.

(6) Front yards of 30 feet shall be provided on dedicated streets measured from the lot line, or 10 feet on private streets measured from the edge of the roadway or back of curb.

(7) In no case shall any mobile home occupy more than 1/3 the total area of any lot.

(8) Exceptions to area requirements for lots established in mobile home parks prior to October 11, 1972:

(a) Minimum lot area shall be 2,200 square feet.

(b) Minimum lot width at building line shall be 31 feet.

(c) Front yards of 25 feet shall be provided on dedicated streets measured from the lot line.

(9) The maximum building site of each mobile home shall be shown on the park plan for each mobile home lot.

(10) **BUILDING SIZE** in division (A)(9) of this section is defined as the outside measurements of the mobile home excluding the trailer hitch and tongue.

(B) Street and access requirements:

(1) Minimum roadway widths within a mobile home park shall be:

(a) Twenty feet with no parking permitted.

(b) Thirty feet with parking permitted on 1 side only.

(c) Forty feet with parking permitted on both sides.

Gregory - Land Usage

(2) All mobile home space shall abut upon hard surfaced streets. Surfacing shall be Portland cement concrete or asphaltic concrete. Completion of surfacing shall be within 2 years of the first occupancy.

(3) All dead-end streets shall terminate in an open space having a 60-foot minimum diameter. No dead-end street shall exceed 500 feet in length.

(4) Streetlights of 175 watt luminaires at 150 feet maximum spacing shall be provided for the safe movement of pedestrians and vehicles at night.

(5) Sidewalks shall be provided within the mobile home park between the individual mobile homes, the park streets and all community facilities provided for park residents. Interior sidewalks and individual walks shall be of Portland cement concrete at least 4 inches in thickness and 2½ feet in width; except, individual walks 2 feet in width may be retained where they exist on the date of passage of this code. Exterior sidewalks and sidewalks along public streets shall comply with the requirements of the ordinances of the city pertaining to public sidewalks.

(6) The owner of a mobile home park shall provide a roadway which shall be at least 20 feet in width with no parking permitted, or 30 feet in width with parking permitted on 1 side only, or 40 feet in width with parking permitted on both sides for the purpose of connecting the roadway system within the mobile home park with the public highway system.

(7) It shall be unlawful and a violation of this chapter for any person to obstruct any roadway required by the provisions of this section.

(C) Every mobile home park shall be located on a well-drained area, and the premises shall be properly graded so as to prevent the accumulation of storm or other waters.

(D) Car parking areas shall be provided at the rate of at least 2 car spaces for each mobile home lot, and at least one of the spaces shall be located on the lot. The car parking spaces shall be surfaced with Portland cement concrete or asphaltic concrete completed in place before occupancy. In no case shall parking be permitted on interior drives within 25 feet of exterior driveways or interior intersections.

(E) Exposed ground surfaces in all parts of every mobile home park shall be paved, or covered with stone screenings, or other solid material or protected with a vegetative growth that is capable of preventing soil erosion and of eliminating objectionable dust.

(F) Each mobile home space shall be provided with a hardstand of sufficient size and depth to adequately accommodate a mobile home.

(G) Anchors such as deadmen, screw augers or arrowhead anchors approved by the Building Inspector shall be provided and installed by the owner of each mobile home.

(H) Each lot in the mobile home park shall be identified by a clearly visible number the size of which shall be at least 3 inches in height.

(Ord. 124, passed 2-7-1994)

§ 151.24 PLACEMENT PERMIT.

The mobile home court owner shall submit a permit application to the Building Inspector before a mobile home is allowed to be placed in a new or vacated space in the owner's court. The permit shall include the mobile home owner's name, mobile home make/model/size, date and time of anticipated arrival, and the court lot location assigned.

(Ord. 124, passed 2-7-1994)

§ 151.25 ANNUAL COMPLIANCE PLAN REVIEW.

Prior to the annual licensing of all mobile home courts, an inspection shall be conducted of each mobile home court to determine the court owner's conformance with the signed mobile home court ordinance compliance plan. The inspection shall include a review of all variances granted in the plans to determine the status and/or continued need for those variances.

(Ord. 124, passed 2-7-1994)

REGULATIONS

§ 151.40 WATER SUPPLY AND SANITARY SEWER.

Within any mobile home park the following regulations applicable to water supply and sanitary waste removal shall be observed:

(A) All units in any mobile home park shall be individually served by a connection with the public water supply, an adequate supply of pure water, furnished through a pipe distribution system connected directly with the city water system.

(B) All units in any mobile home park shall be equipped with flush-type toilets and be connected to the city sewer system.

(Ord. 124, passed 2-7-1994)

§ 151.41 REFUSE DISPOSAL.

Within any mobile home park the following regulations relating to the collection and disposal of solid and semisolid waste shall be observed:

(A) The storage, collection and disposal of refuse in the mobile home park shall be so managed as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards, or air pollution.

(B) All refuse shall be stored in flytight, watertight, rodentproof containers, which shall be located not more than 150 feet from any mobile home space. Containers shall be provided in sufficient number and capacity to properly store all refuse.

(C) All refuse shall be collected in accordance with existing ordinances.
(Ord. 124, passed 2-7-1994)

§ 151.42 PLUMBING, HEATING AND ELECTRICAL REPAIR WORK.

All plumbing, heating and electrical alterations or repairs in a mobile home park shall be made in accordance with applicable local regulations.

(Ord. 124, passed 2-7-1994)

§ 151.43 SKIRTING REQUIRED.

Every mobile home owner shall cause the home to be skirted with material approved by the building official after placement of the home. Areas enclosed by skirting shall be maintained so as not to provide a harborage for rodents, or create a fire hazard.

(Ord. 124, passed 2-7-1994)

§ 151.44 ADDITIONS.

No additions shall be built onto or become a part of any mobile home unless approved by the building official.

(Ord. 124, passed 2-7-1994)

§ 151.45 REGISTER OF OCCUPANTS.

(A) It shall be the duty of each licensee to keep a register containing a record of all mobile home owners and occupants located within the park. The register shall contain the following information:

- (1) The name and address of the owner of each mobile home;
- (2) The name and address of the mobile home renter, if not the owner;
- (3) The make, model, year, lot number, license number and exterior dimensions of each mobile home;
- (4) The state, territory or country issuing the licenses; and
- (5) The date of arrival and of departure of each mobile home.

(B) The park shall keep the register available for inspection at all times by law enforcement officers, public health officials and other officials whose duties necessitate acquisition of the information contained in the register. The register record for each occupant registered shall not be destroyed for a period of 3 years following the date of departure of the registrant from the park.

(Ord. 124, passed 2-7-1994)

§ 151.46 MANAGEMENT, MAINTENANCE AND CONTROL; OWNER.

(A) An office, denoted by a sign, should be maintained in every mobile home park in which shall be located a person in charge of the park. A copy of the park license and of this chapter shall be posted therein and the park register shall at all times be kept in the office. A map of the mobile home park shall be displayed showing the location of each lot. In the event no office is maintained in the mobile home park, illuminated signs shall be maintained at each entrance to the mobile home park showing the name of the mobile home park and a map showing the location and lot number of each lot in the mobile home park.

(B) It is hereby made the duty of the attendant or person in charge together with the licensee, to:

- (1) Keep at all times the register of all occupants as hereinbefore provided;
- (2) Maintain the park in a clean, orderly and sanitary condition at all times;
- (3) Cut and control all noxious weeds;
- (4) Post speed limit signs meeting the specifications of the city engineer at the entrances of the park restricting motor vehicle traffic to not more than 15 mph;

(5) Notify the Building Inspector whenever a space is vacated;

(6) Notify the Building Inspector before a mobile home is placed in a new or vacated space;

(7) See that the provision of this chapter and all other applicable laws and ordinances are complied with; and

(8) Cap all sewers not connected to a mobile home trailer.

(Ord. 124, passed 2-7-1994)

§ 151.47 FIRE EXTINGUISHERS REQUIRED.

Fire extinguishers of class B, C, with a UL rating of 5 shall be furnished in operating condition by the mobile home owner at the time of occupancy and maintained by the mobile home occupant thereafter in all mobile homes in the city.

(Ord. 124, passed 2-7-1994)

§ 151.48 UNLAWFUL OCCUPANCY.

It shall be unlawful and a violation of this chapter for any person to occupy for residential purposes or for the purpose of a home occupation any mobile home which is not so located, maintained or equipped as to fully comply with the provisions and requirements of this chapter.

(Ord. 124, passed 2-7-1994)

CHAPTER 152: FLOOD HAZARD PROTECTION

Section

- 152.01 Council to maintain flood-control measures
- 152.02 City Superintendent; duties
- 152.03 Record of elevations of new structures
- 152.04 Review of building permits
- 152.05 Review of subdivision proposals
- 152.06 New water supply systems and on-site waste disposal

§ 152.01 COUNCIL TO MAINTAIN FLOOD-CONTROL MEASURES.

(A) The City Council assures the Federal Insurance Administration that it will meet as necessary, and maintain in force for these areas having flood hazards, adequate land use and control measures with effective enforcement provisions consistent with the criteria set forth in Section 1910 of the National Flood Insurance Program Regulations.

(B) The City Council agrees to take other official action as may be reasonably necessary to carry out objectives of the program.
(Prior Code, § 15.04.010)

§ 152.02 CITY SUPERINTENDENT; DUTIES.

The City Council vests the City Superintendent with the responsibility, authority and means to:

(A) Assist the administrator, at his or her request, in delineating the limits of the areas having special flood hazards on available local maps of sufficient scale to identify the location of building sites;

(B) Provide information as the administrator may request concerning present uses and occupancy of the floodplain;

(C) Cooperate with federal, state and local agencies and private firms which undertake to study, survey, map and identify floodplain areas, and cooperate with neighboring communities with respect to management of adjoining floodplain areas in order to prevent aggravation of existing hazards; and

(D) Submit on the anniversary date of the community's initial eligibility an annual report to the administrator on the progress made during the past year within the community in the development and implementation of floodplain management measures.

(Prior Code, § 15.04.020) (Ord. 121, passed - -1993)

§ 152.03 RECORD OF ELEVATIONS OF NEW STRUCTURES.

The City Council appoints the City Superintendent to maintain for public inspection and to furnish upon request a record of elevations (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures located in the special flood hazard areas. If the lowest floor is below grade on 1 or more sides, the elevation of the floor immediately above must also be recorded.

(Prior Code, § 15.04.030) (Ord. 121, passed - -1993)

§ 152.04 REVIEW OF BUILDING PERMITS.

The Building Inspector shall review all building permits and applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a location that has a flood hazard, any proposed new construction or substantial improvement (including prefabricated and mobile homes) must:

(A) Be designed (or modified) and anchored to prevent flotation, collapse or lateral movement of the structure;

(B) Use construction materials and utility equipment that are resistant to flood damage; and

(C) Use construction methods and practices that will minimize flood damage.

(Prior Code, § 15.04.040) (Ord. 35, passed - -1975)

§ 152.05 REVIEW OF SUBDIVISION PROPOSALS.

The Supervisor/Finance Officer shall review subdivision proposals and other proposed new developments to assure that:

(A) All proposals are consistent with the need to minimize flood damage;

(B) All public utilities and facilities such as sewer, gas, electrical and water systems are located, elevated and constructed to minimize or eliminate flood damage; and

(C) Adequate drainage is provided so as to reduce exposure to flood hazards.

(Prior Code, § 15.04.050) (Am. Ord. 35, passed - -1975)

§ 152.06 NEW WATER SUPPLY SYSTEMS AND ON-SITE WASTE DISPOSAL.

The Supervisor/Finance Officer shall require new or replacement water supply systems and/or sanitary sewage systems to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and require on-site waste disposal systems to be located so as to avoid impairment of them or contamination from them during flooding.

(Prior Code, § 15.04.060) (Am. Ord. 35, passed - -1975)

CHAPTER 153: ZONING REGULATIONS

Section

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GENERAL PROVISIONS**§ 153.01 GENERAL REGULATIONS.**

Except as hereinafter provided, no building or part thereof shall be erected, constructed, reconstructed, converted, altered, enlarged, extended, raised, moved or used, and no land shall be used except in conformity with the regulations prescribed in this chapter for the district in which the building or land may be situated.

(Prior Code, § 17.04.010)

§ 153.02 NONCONFORMING USERS.

Any lawful use existing at the time of the adoption of this chapter of any building or premises may be continued, even though in conflict with the provisions of this chapter, provided that no nonconforming use shall be substantially enlarged unless a permit is granted therefor by the Board of Adjustment. (In the event that any nonconforming use is hereafter discontinued, any future uses of the premises shall comply with this chapter.)

(Prior Code, § 17.04.020)

§ 153.03 PERMITS; GUIDELINES FOR SIGNS.**(A) *Permits.***

(1) No person or business shall cause any building or structure to be erected, constructed, reconstructed, converted or substantially enlarged, extended or raised, or moved onto any premises within the city limits of the city, unless a permit therefor is obtained from the Board of Adjustment.

(2) Application for a permit shall be made to the City Finance Officer and at the time of making application, the applicant shall furnish in writing the following information:

- (a) The name of the applicant;
- (b) The location of the premises on which the building or structure shall be located;
- (c) The nature of the work or construction to be done;
- (d) The estimated cost of the work to be done;
- (e) The size of the lot or lots upon which the work or construction is to be done;
- (f) The size of the proposed building or structure;

(g) The distance the building or structure will be located from the front, rear and side lot lines;

(h) The approximate time in which construction will begin and the date on which the construction will be completed;

(i) What the outside walls of the building or structure will be made of and, if of used or old materials, the exact nature of the materials;

(j) A statement by the applicant that all work done will conform with the zoning ordinance of the city.

(3) The application must be accompanied by a deposit payment of cash, certified check or a check approved by the Board of Adjustment, made payable to the city equal to 1% of the total estimated building cost, including labor, but in 1 case shall the payment be less than \$25, the deposit to be returned when the building or improvement is completed if it has been done in accordance with the regulations of the city zoning and other ordinances. The application shall also be accompanied by a payment of \$5, for the making of the application, payable to the city which is nonrefundable.

(4) The application shall come on for hearing at the next regular scheduled meeting of the Zoning Board, at which time the applicant shall be heard along with any objections to the granting of the permit.

(5) Within 48 hours after the hearing, the Zoning Board shall notify the applicant as to whether his or her permit has been granted.

(6) The permit will consist of a written statement signed by the City Finance Officer and presiding officer of the Board of Adjustment stating that the application is allowed, and that the applicant may proceed in accordance with the plan submitted with his or her application.

(7) In the event a permit is not granted, a written statement signed by the City Finance Officer and presiding officer of the Zoning Board shall be delivered to the applicant, stating that his or her application for a permit is denied and shall describe the reason therefor.

(8) Upon the granting of a permit, the applicant shall pay \$5 to the Zoning Board for the purpose of covering the expenses the Board or its agents incur in checking to see that the applicant is in fact following the requirements of the plan for which the permit was granted.

(Prior Code, § 17.04.030) (Ord. 41, passed - -1977)

(B) *Permit guidelines for signs.*

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

BILLBOARD. A free standing sign with an advertising area of more than 50 square feet which is supported by one or more uprights, poles, or braces in or upon the ground.

OFF-PREMISES SIGN. Any sign with a maximum advertising area of 50 square feet not located on the same property for which the advertisement is intended.

PORTABLE SIGN. Any sign with a maximum square footage of 32 square feet and is not permanently anchored to the ground or permanently mounted to a building, which is capable of being moved from location to location.

SIGN. Any permanent object, including its structure and component parts, which is used or intended to be used to attract attention to the subject matter for advertising or other purposes and does not include paint on the surface of a building relating to the activity conducted in the building.

TEMPORARY SIGN. Any sign, banner, pendant, valance, or other advertising display constructed of cloth, canvas, light fabric, cardboard, paper, wallboards or other light materials, with or without frames, which may only be displayed not more than 30 days within a calendar year.

(2) *Building permit required.* No sign, other than a temporary sign, bill board or off-premises sign shall hereafter be erected, re-erected, constructed, altered or maintained within the zoning jurisdiction of the city unless a building permit has been issued by the City Superintendent for the specific sign and location. No off-premises sign or bill board may be issued a building permit without prior approval of the City Council.

(3) *General sign regulation.*

(a) *Height and location of sign.* All signs that are within 100 feet of a public approach or intersection shall be at least 20 feet away from the street or the lowest part of the sign and 7 feet above grade for traffic visibility considerations. No sign may be located in a manner that obstructs or otherwise interferes with the view of an official traffic sign, signal, or device or to obstruct or interfere with a driver's view of approaching, merging or intersecting traffic.

(b) *Sign illumination.* All sign illumination shall be from the interior or from floodlight projection shielded which may not shine directly upon public rights-of-way and neighboring properties.

(c) *Public right-of-way.* No sign shall encroach upon or overhang any public right-of-way. No sign shall be attached to any utility pole, light standard, street sign or any other public facility.

(d) *Condition and maintenance.* All signs shall be maintained in good condition. Every sign, together with all of its supports, braces, guys and anchors shall be kept in good repair and in safe state of preservation. The display surface of each sign shall be kept neatly painted or covered at all times.

(e) *Billboards.* All billboards shall have a maximum height from adjacent grade of 36 feet; a maximum advertising area of 300 square feet; minimum ground clearance of 8 feet; minimum distance from residential zones of 200 feet measured along the street; minimum distance from other billboards of 300 feet; minimum distance from street intersection of 100 feet as measured from the right-of-way; and the maximum number per parcel of property is one.

(f) *Off-premises signs.* All off-premises signs shall have a maximum height from adjacent grade of 15 feet; a maximum advertising area of 50 square feet; minimum ground clearance of 7 feet; minimum distance from residential zones of 100 feet measured along the street; minimum distance from street intersection of 20 feet as measured from the right-of-way; and the maximum number per parcel of property is one.

(4) *Exemptions.* The following signs shall be exempt from licensing provisions of this chapter: official notices authorized by a court, public body or public safety official; directional, warning or information signs authorized by federal, state, or local government; memorial plaques, building identification signs and building cornerstones when made an integral part of the building or structure; flag of a government or non-commercial institution, religious symbols and non-commercial seasonal decorations appropriate to the holiday season; real estate for sale signs provided that all signs shall be located upon the property to which they apply and shall not have a maximum advertising area greater than 4 square feet; and community event message signs owned by a non-profit, civic organization or a governmental entity.

(Ord. 153, passed 4-3-2000)

§ 153.04 BUILDINGS TO BE OF EXCELLENT STRUCTURAL CONDITION.

No person shall cause any building or structure to be established, reconstructed or altered or moved into either the residence or business district which is not of excellent physical structural condition, unless the person shall indicate in his or her plan as given to the Zoning Board, that he or she will convert the same to meet the qualifications, and any building or structure shall not be established in any neighborhood unless the same substantially complies with the architectural norms and standards existing in the neighborhood. Nor shall any building or structure be established which does not meet any building code provision which may now or hereafter be approved by the City Council.

(Prior Code, § 17.04.040)

§ 153.05 USE OF CITY WATER SUPPLY OR SEWER SYSTEM.

No person shall make available to any owner of any building to be established, reconstructed or altered or moved into the city the use of the city water supply or sewer system until the specifications for granting a permit to the owner are in complete accordance with this chapter.

(Prior Code, § 17.04.050) (Ord. 24, passed - -1973)

§ 153.06 EXCEPTION TO PERMIT REQUIREMENT.

A building permit is not required if the following conditions are met:

(A) The building or structure is not placed on a permanent foundation;

(B) The building or structure is 160 square feet or less in size;

(C) There is no water or permanent electric service to the building/structure; and

(D) The building or structure meets the set back criteria as listed in § 153.52.

(Ord. 192, passed 8-7-2006)

BOARD OF ADJUSTMENT**§ 153.20 MEMBERS; TERM OF OFFICE.**

The duly elected members of the City Council for the city shall be the Board of Adjustment, each to serve without compensation, and during their term of office, as Council members, when they retire and are replaced, they shall automatically fill the position of their predecessor. The Mayor of the city shall be a member of this board, and shall only have the power to vote on the Board of Adjustments should there be a deadlock or tie of the 6-member board.

(Prior Code, § 17.08.010) (Ord. 41, passed - -1977)

§ 153.21 CHAIRPERSON AND SECRETARY.

The Mayor shall act as Chairperson of the Board of Adjustment, and the City Auditor shall act as Secretary of the Board and keep its minutes and other records.

(Prior Code, § 17.08.020) (Ord. 41, passed - -1977)

§ 153.22 MEETINGS.

(A) Meetings of the Board may be held at the call of the Chairperson or at other times as the Board may determine.

(B) The meetings of the Board shall be conducted in accordance with statute and the rules as may be adopted by the Board, or in the event there are no statutory or adopted rules, then in accordance with Roberts Rules of Order insofar as the same are applicable.

(C) Special meetings can be called at the request of 2 members of the Board, but personal notice, either written or oral, of the meeting shall be given to the other members thereof at least 24 hours before a meeting.

(D) The Board shall meet in the City Council meeting room, and all meetings shall be open to the public.

(E) Three members of the Board shall constitute a quorum, and the Secretary shall keep accurate minutes of its proceedings and the votes taken by each member thereof on each question.
(Prior Code, § 17.08.030)

§ 153.23 POWERS.

(A) The Board shall have the power to require the taking down of any advertising signs, billboards or illustrations which the Board finds to be unsightly or detrimental to the neighborhood.

(B) Upon a proper showing of benefit to the community and a showing of lack of public disapproval, the Board may, subject to appropriate safeguards, make special exceptions to the terms of this chapter, in harmony with its general purpose and intent; or the Board may act to meet any situation not clearly contemplated by the terms of this chapter, or may act contrary to its strict terms where the carrying out of the strict letter of this chapter would result in practical difficulties or unnecessary hardships.

(C) The Zoning Board shall have all those powers and be bound by all the restrictions and laws regulating boards of adjustment in South Dakota as prescribed by SDCL Chapter 11-4 as amended.
(Prior Code, § 17.08.040) (Ord. 117, passed - -1993)

§ 153.24 APPEALS.

The Board of Adjustment shall permit and entertain appeals from its decisions or those of any administrative official: that notice of the appeal shall be given to the Board within 10 days from the time that the appellant is given notice of the decision, but in no event later than 60 days after the making of the decision.

(Prior Code, § 17.08.050)

ZONING DISTRICTS GENERALLY**§ 153.35 DISTRICTS.**

For the purpose of this chapter, the city is divided into a residential district and a business district.
(Prior Code, § 17.12.010)

§ 153.36 BOUNDARIES.

(A) The business district shall comprise Blocks 46, 47, 52, 53, 60, 61, 66, 67, 73, 74, 75, 80, 81, 88 and 89; all property within the city being within 150 yards from the right-of-way of U.S. Highway 18; and all property within the city limits and within 150 feet from the right-of-way of South Dakota State Highway No. 47.

(B) The residential district shall comprise the remainder of the city.
(Prior Code, § 17.12.020)

RESIDENCE DISTRICT**§ 153.50 USE REGULATION.**

Except as otherwise provided in this chapter, no building or land situated in the residence district shall be used for other than one or more of the following purposes:

- (A) Dwelling houses;
- (B) Apartment houses;
- (C) Churches;

(D) Libraries;

(E) Parks;

(F) Private garages;

(G) Club, lodge or community center buildings not used to make profits;

(H) Playgrounds, gardens and farms;

(I) Motels and trailer courts, provided that the plans and specifications for the motels or trailer courts are submitted to and approved by resolution of the City Council.

(Prior Code, § 17.16.010)

§ 153.51 ACCESSORY AND AUXILIARY USES.

(A) Any use of property in the residence district, other than residence thereon, shall be permitted therein where the Zoning Board finds that such use is one customarily incidental to the use of residential districts and grants a permit therefor.

(B) No professional person or person conducting any other business within his or her residence shall conduct the business in a residential district unless the business activity does not occupy more than 50% of the floor area of 1 story of the building, and unless there is no attempt to display goods or display to the public advertising signs larger than a 1-foot square; and unless the premises occupied by a business shall not be rendered detrimental to the residential character of the neighborhood due to odors, smoke, dust or noise, and shall not include features or designs not customarily found in residential buildings.

(Prior Code, § 17.16.020)

§ 153.52 CRITERIA FOR GRANTING PERMIT.

(A) No residence building or structure shall hereafter be established within the residence district of the city unless the same is situated on a lot including at least 5,000 square feet.

(B) Front yard. No residence building or structure shall be established or an existing building reconstructed or altered on any premises within the residence district which is bordered by a city street or proposed city street in a manner that the front of the building or structure shall be less distance from the front lot line than the average improved building front on that street in that block, but in no case shall the setback line be less than 20 feet from the front lot line. This minimum setback line may be increased for any single block by the Board of Adjustment upon its approval of a petition of 3/4 of the owners of the lots fronting the street requesting an increase.

(C) Side yard. No building or structure shall hereafter be constructed or reconstructed on any premises in the residence district so that any portion thereof shall be closer to the sideline of the building lot than 8 feet. Provided that when the side lot shall abut upon a side street, the Board may require a side yard of not less than 8 feet nor more than 20 feet on the side abutting the street.

(D) No private garage or accessory building shall be built within 15 feet of the front lot line and the garage or accessory building shall be at least 8 feet from the side lot line.

(E) Rear yard. If the rear of a building lot abuts upon an alley that is used and open to the public, a residence shall not be established nearer the rear lot line than 5 feet. If the building lot does not abut upon an alley, no residence shall be established nearer the rear lot line than 15 feet.
(Prior Code, § 17.16.030)

§ 153.53 TRAILER HOUSES.

Hereafter, no trailer court shall be established on premises within the residence district of the city which are not part of a trailer court. The trailer house or mobile home shall be established only in a manner as to comply with all requirements of this chapter just as any other building or structure hereafter built, reconstructed or altered within the residence district.
(Prior Code, § 17.16.040)

§ 153.54 DRIVEWAYS.

Any person hereafter seeking to establish a private residence within the residence district shall provide a driveway to the lot where the building is established so as to permit parking of motor vehicles thereon.
(Prior Code, § 17.16.050)

BUSINESS DISTRICT

§ 153.70 PERMITTED ACTIVITIES.

Unless otherwise provided in this chapter, or by other laws, all activities commonly associated with business may be conducted in the business district, provided that no business or industry which inherently involves the accumulation of undesirable byproducts or the production of undesirable odors, smoke, dust or noise, or the accumulation of large amounts of unsightly and bulky raw materials,

equipment or storage facilities shall hereafter be allowed to conduct its activities in the business district unless suitable safeguards are arranged in connection therewith to prevent the same from becoming a public nuisance.

(Prior Code, § 17.20.010)

TABLE OF SPECIAL ORDINANCES

Table

I. ANNEXATIONS

II. FRANCHISE AGREEMENTS

TABLE I: ANNEXATIONS

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
-	12-18-2000	Annexation of Lots 1, 2 and 4 of the SE ¼ of Section 11, Township 97, Range 73, west of the Fifth P.M., Gregory County.
-	- -	Annexation of part of outlot A in the SE ¼ of the NE ¼ of Section 11, Township 97, Range 73 in Gregory County, lying east of the present right-of-way of State Highway No. 47.

TABLE II: FRANCHISE AGREEMENTS

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
52	7-16-1979	Granting a franchise to the Rosebud Community Cable Television, to operate and maintain a community antenna television system in the city.

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 Reference</i>	<i>Code Section</i>
9-1-1	10.02; 10.04
9-13-13	10.04
9-19-1	10.04
9-19-3	10.99
10-6-35.2	32.55; 32.56
10-45	32.21; 32.24; 32.71; 32.73; 32.99
10-46	32.22; 32.24; 32.99
10-52	32.20; 32.23
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11-4	31.22; 153.23
11-6	31.22
32-36	93.23; 93.26; 93.51
35-1-1	32.71

REFERENCES TO PRIOR CODE

<i>Prior Code</i>	<i>2007 Code</i>
Appendix B	90.039
1.08.010	11.01
1.12.010	11.02
1.12.020	11.02
1.16.010	11.03
1.16.020	11.03
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5.12.030	110.02
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6.08.130	91.12

References to Prior Code

<i>Prior Code</i>	<i>2007 Code</i>
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References to Prior Code

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Gregory - Parallel References

<i>Prior Code</i>	<i>2007 Code</i>
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REFERENCES TO RESOLUTIONS

<i>Res. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
-	4-2-1984	70.03
-	1-18-1992	70.02
-	12-20-2004	70.99

REFERENCES TO ORDINANCES

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135	--	50.11
136	--	51.01
149	--	90.004
199	--	95.20-95.23
24	--1973	153.05
35	--1975	152.04-152.06
41	--1977	153.03; 153.20; 153.21
52	7-16-1979	TSO II
62	--1982	32.40
69	--1983	50.06
71	--1983	90.050-90.062; 91.064; 90.065; 90.999
73	--1984	50.07; 50.08
73B	--1984	70.04
74A	--1984	92.01-92.03; 92.99
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89	--1989	50.01
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99	--1992	50.11
101	--1992	50.06
100	6-1-1992	50.12
104	--1993	150.02; 150.99
107	--1993	10.99
108	--1993	30.36
109	--1993	30.43
111	--1993	91.01-91.12
112	--1993	130.01
113	--1993	130.01

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116	--1993	90.004
117	--1993	153.23
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121	--1993	152.02; 152.03
122	--1993	91.25
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