REVISED

MUNICIPAL ORDINANCES

CITY OF DELL RAPIDS, SOUTH DAKOTA

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AN ORDINANCE IN REVISION OF THE MUNICIPAL ORDINANCES
OF THE CITY OF DELL RAPIDS, SOUTH DAKOTA

Revised under the direction of the City Council of the City of Dell Rapids
Prepared by the South Eastern Council of Governments

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CHAPTER 1 – GENERAL PROVISIONS

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Section 1-3. Corporate limits.
Section 1-4. General penalty; continuing violations.
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Section 1-8. Amendments to Code.
Section 1-9. Supplementation of Code--Generally.
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SECTION 1-1. TITLE

This ordinance, hereinafter also referred to as this Code, shall be known as the "Revised Ordinances of Dell Rapids" and may be so cited.

State law reference(s)--Authority to adopt ordinance in revision of municipal ordinances, SDCL 9-19-16.

SECTION 1-2. RULES OF CONSTRUCTION AND DEFINITIONS

In the construction of this Code, the following rules shall be observed and the following definitions shall apply, unless such construction would be inconsistent with the manifest intent of the council:

Generally. The provisions of this Code shall be liberally construed to effect the purposes expressed therein or implied from the expression thereof. In case of doubt or ambiguity in the meaning of such provisions, the general shall yield to the particular. Reference for interpretation and construction shall tend to further the accomplishment of the elimination of the particular mischiefs for which the provisions were enacted. Words shall be construed in their common and usual significance unless the contrary is clearly indicated.

City. The words "the city" or "this city" shall mean the City of Dell Rapids, in the County of Minnehaha and the State of South Dakota.

Code. The term "Code" or "this Code" shall be taken to mean the Revised Ordinances of Dell Rapids in their entirety, including each and every section thereof. The entire Code is intended by the council to constitute an ordinance in revision of the ordinances of the city, within the meaning of SDCL 9-19-16 and 9-19-17.

Computation of time. In computing any period of time mentioned in the provisions of this Code, the day of the act, event or default after which the designated period of time begins to run is not to be included, and the last day of the period so computed is to be included, unless it is a Sunday or a legal holiday, in which event the period runs until the end of the next day which is neither a Sunday nor a holiday.

Council. The words "council" or "city council" shall mean the City Council of the City of Dell Rapids, constituting the governing body of the city.

County. The term "county" or "this county" shall mean the County of Minnehaha, South Dakota.

Duties performed by agents. Wherever in this Code any act is required to be done by an officer in the line of his general duties, or by a department head or inspector, the same shall be construed to permit the doing of such act by the agent or subordinate of such person; provided that the agent or subordinate is duly authorized and duly qualified to perform such act. Such rule shall apply also to license holders, where such act is not otherwise required to be performed personally by such person, either by specific law or by the nature of such act.

Gender. A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships, associations and corporations, as well as to males.

Joint authority. Words purporting to give authority to three (3) or more officers or other persons shall be construed as giving such authority to a majority of such officers or other persons, unless it is otherwise declared.

Month. The word "month" shall mean a calendar month.

Number. Any word importing the singular number shall include the plural and any word importing the plural number shall include the singular.

Oath. The word "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

Officers and employees. Whenever reference is made in this Code to a city officer or employee by title only, this shall be construed as though followed by the words "of the City of Dell Rapids" and shall be taken to mean the officer or employees of this city having the title mentioned or performing and duties indicated.

Or, and. "Or" may be read "and," and "and" may be read "or," if the sense requires it.

Person. The word "person" shall extend and be applied to associations, corporations, firms, partnerships, organizations and bodies politic and corporate as well as to individuals.

Signature or subscription. The words "signature" or "subscription" shall include a mark when a person cannot write.

State. The words "the state" or "this state" shall be construed to mean the State of South Dakota.

Tense. Words used in the past or present tense include the future as well as the past and present.

Variations in punctuation; typographical errors; etc. No variation in punctuation, either formal or informal, consistent or not, shall affect the validity of this Code, nor shall obvious or apparent defects in spelling or typography be construed as to invalidate any portion hereof, so long as the purpose and intent of the section is clear.

Wholesaler or wholesale dealer. In all cases where the words "wholesaler" or "wholesale dealer" are used in this Code, unless otherwise specifically defined, such terms shall be understood to relate to the sale of goods, merchandise, articles or things in quantity to persons who purchase for the purpose of resale, as distinguished from a retail dealer who sells in smaller quantities direct to the consumer.

Written or in writing. The words "written" or "in writing" shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

Year. The word "year" shall mean a calendar year.

(Ord. No. 128, §§ 1, 2, 2-2-26)

SECTION 1-3. CORPORATE LIMITS

The corporate limits of the city are hereby declared to be such as have heretofore and hereafter been legally established and amended by law and ordinances of the city as shown on the official may thereof on file in the office of the municipal finance officer which such map is incorporated in this Code by reference and adopted as the official map showing the boundaries and limits of the city.

SECTION 1-4. GENERAL PENALTY; CONTINUING VIOLATIONS

Whenever in this Code or in any ordinance of the city an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or wherever in such Code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, and no specific penalty is provided therefor, any person who shall be convicted of any such violation shall be fined not more than two hundred dollars ($200.00), or imprisoned in the city jail no longer than thirty (30) days, or shall receive both such fine and imprisonment. Each day any violation of this Code or other ordinance continues shall constitute a separate offense.

(Ord. No. 524, § 1, 3-21-95)

State law reference(s)--Maximum penalty permitted, SDCL 9-19-3.

SECTION 1-5. SECTION CATCHLINES AND OTHER HEADINGS

The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to be the titles of such sections, nor as any part of the sections, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted. No provision of this Code shall be held invalid by reason of deficiency in any such catchline or in any heading or title to any chapter, article or division.

SECTION 1-6. ORDINANCES SAVED FROM REPEAL

Nothing contained in this Code of Ordinances, nor in the ordinance adopting this Code, shall be construed to repeal or otherwise affect in any manner:

(1) Any ordinance or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this Code;

(2) Any ordinance promising or guaranteeing the payment of money for the city or authorizing the issuance of any bonds of the city or any evidence of the city's indebtedness;

(3) Any contract or obligation assumed by the city;

(4) Any right or franchise granted by the city;

(5) Any budget or appropriation ordinance;

(6) Any ordinance which, by its own terms, is effective for a stated or limited term;

(7) Any ordinance providing for local improvements and assessing taxes therefore;

(8) Any zoning or subdivision ordinance adopted pursuant to special notice and hearing requirements; or

(9) Any ordinance pertaining to gas service;

(10) Any ordinance dedicating, accepting or vacating any plat or subdivision in the city or any part thereof;

(11) Any ordinance adopted after December 16, 1975, and all such ordinances are hereby saved from repeal and recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

SECTION 1-7. PUBLICATION AND EFFECT

This Code shall be printed and published in book form and shall take effect as provided by law.

State law reference(s)--Authority to publish revised ordinances in book form, SDCL 9-19-17.

SECTION 1-8. AMENDMENTS TO CODE

(a) Amendments to any of the provisions of this Code shall be made by amending such provisions by specific reference to the section number of this Code in the following language: "That section _____ of the Revised Ordinances, City of Dell Rapids, South Dakota, is hereby amended to read as follows: . . . " The new provisions shall then be set out in full as desired.

(b) In the event a new section not heretofore existing in the Code is to be added, the following language shall be used: "That the Revised Ordinances, City of Dell Rapids, South Dakota, is hereby amended by adding a section, to be numbered _____, which said section reads as follows: . . . " The new section shall then be set out in full as desired.

SECTION 1-9. SUPPLEMENTATION OF CODE--GENERALLY

(a) By contract or by city personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the city council. A supplement to the Code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this Code, all portions of the Code which have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.

(c) When preparing a supplement to this Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

(1) Organize the ordinance material into appropriate subdivisions;

(2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles;

(3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;

(4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code); and

(5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

SECTION 1-10. SAME--EXLCUSION OF SPECIAL OR TEMPORARY ORDINANCES

Ordinances hereafter adopted which are not of a general or permanent nature shall be numbered consecutively, authenticated, published and recorded in the book of ordinances, but shall not be prepared for insertion in this Code, nor be deemed a part hereof.

SECTION 1-11. RESPONSIBILITY OF OFFICERS WITH RESPECT TO ASSIGNED COPIES OF CODE

Each city officer assigned a copy of this Code shall be responsible for maintaining the same and for the proper insertion of amendatory pages as received. Each such copy shall remain the property of the city and shall be turned over by the officer having custody thereof, upon expiration of his term of office, to his successor or to the municipal finance officer, in case he shall have no successor.

SECTION 1-12. SEVERABILITY

Should any provision or section of this Code be held unconstitutional or invalid, such holding shall not be construed as affecting the validity of any of the remaining provisions or sections, it being the intent of the city council that this Code shall stand, notwithstanding the invalidity of any provision or section thereof. The provisions of this section shall apply to the amendment of any section of this Code, whether or not the wording of this section is set forth in the amendatory ordinance.

CHAPTER 2 – ADMINISTRATION*

***Cross reference(s)--**Civil defense, Ch. 8; elections, Ch. 9; police, Ch. 17; planning and zoning commission, App. A; board of adjustment, App. B, § 601 et seq.; administration and enforcement of zoning ordinance, App. B, § 801 et seq.

State law reference(s)--Municipal government, SDCL tit. 9.

Article I. In General

Section 2-1. Ordinances saved from repeal.
Sections 2-2 - 2-15. Reserved.

Article II. City Council

Section 2-16. Regular meetings.
Section 2-17. Special meetings.
Section 2-18. Rules of procedure.
Section 2-19 – 2-29. Reserved.

Article III. Officers and Employees

Section 2-30. Municipal finance officer.
Section 2-31. Deputy municipal finance officer.
Section 2-31.1. City attorney.
Section 2-32. Fixing amount of bond.
Section 2-33. Salaries of employees.
Section 2-34. Vacation allowances.
Section 2-35. Sick leave allowances.
Section 2-36 – 2-39. Reserved.

Article IV. Planning Commission

Section 2-40. Creation.
Section 2-41. Number, appointment and tenure of planning commission members.
Section 2-42. Vacancies.
Section 2-43. Organization.
Section 2-44. Removal for cause.
Section 2-45. Power and duties of commission.
Section 2-46. Preparation of comprehensive plan.
Section 2-47. Zoning regulations.
Section 2-48. Subdivision plans and regulations.

ARTICLE I. IN GENERAL

SECTION 2-1. ORDINANCES SAVED FROM REPEAL

Nothing contained in this Code of Ordinances, nor in the ordinance adopting this Code, shall be construed to repeal or otherwise affect in any manner any ordinance fixing the salary of any city officer or employee, and all such ordinances are hereby saved from repeal and recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

SECTION 2-2. MAYOR – TERM OF OFFICE

The City Council shall consist of the Mayor elected at large, who shall hold office of four years, and eight aldermen, two elected from each ward, who shall hold office for three years. (SDCL 9-8-1 and 9-8-4).

(Ord. No. 595, § 1, 4-17-00; Ord. No. 757, § 1, 12-19-11)

State law reference(s)--Mandate to fix salaries of municipal officers, SDCL 9-14-28.

SECTIONS 2-3 – 2-15. RESERVED

ARTICLE II. CITY COUNCIL

SECTION 2-16. REGULAR MEETINGS

Regular meetings of the city council shall be held at the city hall building on the first and third Mondays of each month, at the hour of 7:00 p.m.

(Ord. No. 128, § 3, 2-2-26; Ord. No. 553, § 1, 9-2-97; Ord. No. § 1, 6-3-24)

State law reference(s)--Authority to establish regular meeting dates, SDCL 9-8-8.

SECTION 2-17. SPECIAL MEETINGS

Special meetings of the city council may be called by the mayor or by a majority of the members of the council by causing notice of such meeting to be given in writing, stating the purpose of the meeting, and the hour, provided further that such notice shall be served upon such members or mayor prior to the hour set for such meeting. The notice shall be served by the municipal finance officer or the chief of police, and if the same can not be served, such reason for failure to serve

shall be noted in the minute book, and any business at such special meeting shall have the same force and effect as if transacted at such regular meeting of such body.

(Ord. No. 128, § 4, 2-2-26)

State law reference(s)--Authority to prescribe manner of calling special meetings, SDCL 9-8-8.

SECTION 2-18. RULES OF PROCEDURE

The following rules are hereby declared to constitute the rules and regulations governing the transaction of business for and in behalf of the city council, and such rules and regulations shall govern all matters therein mentioned, except that in case the same shall be contrary to any statute of the state or ordinance of the city, such provision or rule shall only be void in so far as the same conflicts with such statute or ordinance:

(1) The mayor shall preside over the city council, and shall take the chair at the stated hour of all meetings of the city council, and shall immediately call the members to order, and upon the call of the roll, if there be a quorum present, he shall cause the journal of the preceding meeting of the council to be read. All rules adopted by the council concerning the mayor shall equally apply to the president pro-tem, when, in the absence of the mayor, he may be performing the duties of chairman.

(2) After the reading and approval of the journal, the presiding officer shall cause the council to proceed to the regular order of business, which shall be as follows:

a. Calling the roll;
b. Reading records of previous meeting;
c. Reports of standing committees;
d. Reports of select committees;
e. Reports and other communications from the department and corporation officers;
f. Unfinished business;
g. Introduction of ordinances;
h. Presentation of petitions, communications and bills;
i. Motions and resolutions;
j. First reading of ordinances;
k. Second reading and final passage of ordinances;
l. Examination and auditing of accounts;
m. Miscellaneous business;
n. Adjournment.

(3) The presiding officer shall preserve order and decorum, may speak to points of order in preference to members of the council, rising from his seat for that purpose; and shall decide questions of order, subject to an appeal to the council by any one member, on which appeal no member shall speak more than once, unless by leave of the council, and unless a majority

of all the members shall vote in the negative on such appeal the decision of the chair shall be sustained.

(4) The presiding officer shall rise to put a question.

(5) All committees shall be appointed by the mayor, unless otherwise especially directed or appointed by a majority of the city council.

(6) The presiding officer shall have a vote only when the votes of the other members are tied, in which case he shall give the deciding vote.

(7) Whenever it shall be moved and carried that the council go into committee of the whole, the presiding officer shall leave the chair and appoint a chairman of the committee of the whole, who shall report back to the council the proceedings of the committee. The rules of the council shall be observed in such committee except the rules respecting the ayes and nays and the previous question.

(8) Any member of the body may require the division of a question when the sense thereof will admit of such division.

(9) Every member when he speaks, shall, standing in his place address the presiding officer of the council, upon the question or subject in debate, and when he has finished shall take his seat.

(10) When two (2) or more members shall rise at once, the presiding officer shall name the member who is first to speak.

(11) No person shall absent himself without the permission of the presiding officer, nor at adjournment leave his place until the presiding officer shall declare the council adjourned.

(12) The council shall sit with open doors and shall keep a journal of its proceedings, except during the holding of an executive session.

(13) A question, motion or resolution shall not be debated or put unless the same be seconded, and no member shall speak on such question, motion or resolution, or offer any amendment or substitute therefor until the chair shall have stated the same.

(14) When a question is under debate no motion shall be received except to adjourn, to lay on the table, for the previous question, to postpone to a day certain, to commit, to amend, to postpone indefinitely, which several motions shall have preference in the order in which they are here arranged.

(15) A motion to adjourn shall always be in order and shall be decided without debate.

(16) A motion to refer, or lay on the table, until it be decided, shall preclude all amendments and debate of the main question.

(17) The previous question, until it be decided, shall preclude all amendments and debate, and shall be put in this form: "Shall the main question be put?"

(18) When the previous question shall have been ordered, and there shall be pending amendments to the main question, the question shall be first taken up on such amendments in their order, and then upon the main question, without further debate or amendment.

(19) Every member who shall be present when a question is put shall vote for or against the same, unless the council shall excuse him, or unless he be immediately interested in the question, in which case he shall not vote; any members of the city council acting as president pro-tem, or chairman of the committee of the whole shall have the right to vote, should the city council or committee of the whole be equally divided, the question shall be lost.

(20) A member called to order shall immediately sit down, unless permitted to explain, and the council, if appealed to, shall decide on the case, but without debate. If there be no appeal the decision of the chair shall stand.

(21) All questions shall be put in the order in which they are made.

(22) Upon the request of any member for a call of the ayes and nays on any question, the names of those who vote for and those who vote against the question shall be entered on the journal and in the appropriation of public money the ayes and nays shall be called by the municipal finance officer and recorded.

(23) All resolutions appropriating money, or pertaining thereto, shall be referred to the appropriate or select committee, as the council may determine, and shall lie over to the next meeting of the council after that at which the resolution was presented.

(24) No officer of the city, member of the council, or any person connected with the city government shall order any printing of work, or make any purchase or contract to be paid for by the city, unless ordered by the council; otherwise it shall not be binding upon the council to pay for such work or printing ordered or purchased or contract made.

(25) It shall be the duty of the chairman of each committee, when any business has been referred to the committee of which he is chairman, to notify the members of the committee to meet and consult upon the business referred to them; and the chairman of any standing or select committees shall not make any contract entrusted to the committee, unless a majority of the committee act in favor of the same; and unless it be in case of absence from the city, or sickness each member shall be consulted by the chairman regarding any business that may have been referred to such committee. Any contract made contrary to this rule shall not be binding upon the council.

(26) Contracts for work entrusted to any committee to have done for and on behalf of the city, shall in all cases be advertised in conformance with state law, and any contract made

contrary to this rule shall not be binding upon the council, unless otherwise especially ordered by the council.

(27) All reports of committees, select or standing, shall be made in writing.

(28) The election of officers of the council shall be by ballot, and in all elections the persons receiving the majority of the votes cast shall be elected.

(29) The rules and orders of the council, or any of them, shall not be suspended unless by a vote of at least two-thirds of the members present; nor shall any rule or order be rescinded or changed, unless a notice in writing be given thereof at the meeting next preceding that on which it is proposed to rescind or change such rule or order, nor unless at least a majority of the whole council shall vote in favor of rescinding or changing the same; nor shall the order of business as established by the rules of this council be postponed or changed, except by a vote of at least two-thirds of the members present.

(30) The rules of parliamentary practice shall govern the council in all cases to which they are applicable, and in which they are not inconsistent with the standing rules of the council.

(31) At the first meeting of the council in May of each year, the mayor shall appoint the committees for the city.

(Ord. No. 128, § 3, 2-2-26)

SECTIONS 2-19 – 2-29. RESERVED

ARTICLE III. OFFICERS AND EMPLOYEES

SECTION 2-30. MUNICIPAL FINANCE OFFICER

(a) The City Council is hereby authorized to appoint a Municipal Finance Officer instead of an Auditor or Clerk and Treasurer, pursuant to the provisions of SDCL Chapter 9-14.

(b) Appointment of Municipal Finance Officer. The Municipal Finance Officer shall be appointed by the Mayor with the consent of a majority vote of the City Council for an indefinite term.

(c) The Municipal Finance Officer shall perform all of the duties of the City Auditor and City Treasurer as provided by law, except where duplicate records are required, only one set of records will be necessary.

(Amended: Ord. No. 946, Adopted 04/07/25)

(Res. No. 8-72, 5-2-72)

State law reference(s)--Custody and accounting for municipal funds, SDCL ch. 9-22; municipal warrants and disbursements, SDCL ch. 9-23.

SECTION 2-30.1. CITY ADMINISTRATOR

(a) Creation of Office. The office of the City Administrator is hereby created. The City Administrator shall be the chief administrative officer of the City and shall be responsible to the City Council for the proper administration of all affairs of the City.

(b) Appointment of City Administrator. The City Administrator shall be appointed by the mayor with the consent of a majority vote of the City Council for an indefinite term.

(c) Powers and Duties of City Administrator. The City Administrator shall perform all duties and have all powers as provided by law and by resolution or motion of the City Council.

(Ord. No. 629, 1-7-02)

SECTION 2-31. DEPUTY MUNICIPAL FINANCE OFFICER

(a) The office and position of Deputy Municipal Finance Officer is hereby created.

(b) Appointment of Deputy Municipal Finance Officer. The Deputy Municipal Finance Officer shall be appointed by the Mayor with the consent of a majority vote of the City Council for an indefinite term.

(c) The Deputy Municipal Finance Officer shall be vested with all the powers of the Municipal Finance Officer, subject to control of the Municipal Finance Officer.

(Amended: Ord. No. 946, Adopted 04/07/25)

SECTION 2-31.1. CITY ATTORNEY

(a) The City Council is hereby authorized to appoint a City Attorney and Deputy City Attorney pursuant to SDCL Chapter 9-14.

(b) Appointment of City Attorney and Deputy City Attorney. The City Attorney and Deputy City Attorney shall be appointed by the Mayor with the consent of a majority vote of the City Council for an indefinite term.

(c) The City Attorney and Deputy City Attorney shall perform all of the duties as provided by law.

(Amended: Ord. No. 433, 8-18-87; Ord No. 946, Adopted 04/07/25)

SECTION 2-32. FIXING AMOUNT OF BOND

The amount of the bond which each designated appointive officer and employee of the city shall furnish upon entering his or her duties shall be a minimum of one thousand dollars ($1,000.00) under a blanket city bond, such bonds shall be for the faithful performance of their appointive duties and offices. The appointive officers shall account, pay over and deliver all money or property coming into their hands by virtue of their office according to law. The municipal liquor store manager shall be required to furnish an additional bond in the penal sum of nine thousand dollars ($9,000.00), and the employees of the municipal liquor store shall each be required to furnish an additional bond in the sum of one thousand five hundred dollars ($1,500.00). The municipal finance officer shall be required to furnish an additional bond in the sum of forty-nine thousand dollars ($49,000.00) for the faithful performance of his duties and office and to account, pay over and deliver all money or property coming into his hands by virtue of his office according to law and, further, to take and subscribe an oath of office all of which bonds shall be approved by the city council and filed in accordance with law.

(Ord. No. 318, § 9, 12-16-75)

SECTION 2-33. REPEALED

(Ord. No. 318, § 10, 12-16-75; Ord. No. 952, § 2-17-26)

SECTION 2-34. REPEALED

(Ord. No. 318, § 11, 12-16-75; Ord. No. 952, § 2-17-26)

SECTION 2-35. REPEALED

(Ord. No. 318, § 12, 12-16-75; Ord. No. 952, § 2-17-26)

SECTIONS 2-36 – 2-39. RESERVED

Editor's note--Ord. No. 318, § 1, adopted November 18, 2013, amended the Code by addition of provisions numbered as Art. IV, §§ 2-40—2-48. As a result, the numbers between Art. III §§ 36 and 39 have been deemed reserved at the city's direction.

ARTICLE IV. PLANNING COMMISSION

SECTION 2-40. CREATION

The Dell Rapids Planning Commission is hereby created pursuant to SDCL 11-6 for the City of Dell Rapids, South Dakota.

(Ord. No. 780, § 1, 11-18-13)

SECTION 2-41. NUMBER, APPOINTMENT AND TENURE OF PLANNING COMMISSION MEMBERS

The Dell Rapids Planning Commission shall consist of five members appointed by the Mayor and subject to approval by the City Council. The term of each of the appointed members shall be five years. Each member is limited to serving two, five year terms. The appointed members shall be residents of the City of Dell Rapids, South Dakota. Administrative officials of the City may be appointed as ex-officio members of the Planning Commission.

(Ord. No. 780, § 1, 11-18-13)

SECTION 2-42. VACANCIES

Any vacancy in the membership of the Planning Commission shall be filled for the unexpired term in the same manner as for appointment.

(Ord. No. 780, § 1, 11-18-13)

SECTION 2-43. ORGANIZATION

The Planning Commission shall elect a Chairman from among its members for a term of one year with eligibility for re-election and shall also elect a Vice Chairman and Secretary in a manner prescribed by the rules of the members. The Planning Commission shall hold at least one regular meeting each month and shall adopt rules for transaction of its business and keep a record of its resolutions, transactions, findings and determinations which shall be a public record. The Planning Commission may appoint such employees as it may deem necessary for its work and may also contract with planners, engineers, architects and other consultants for such services as it may require, provided however, that such appointments and contracts shall be approved by the City Council.

(Ord. No. 780, § 1, 11-18-13)

SECTION 2-44. REMOVAL FOR CAUSE

The Mayor, with confirmation of the City Council, shall after public hearing have the authority to remove any member of the Planning Commission for cause, which cause shall be stated in writing and made a part of the record of such hearing.

(Ord. No. 780, § 1, 11-18-13)

SECTION 2-45. POWER AND DUTIES OF COMMISSION

The Dell Rapids Planning Commission, its members and employees, shall have all such powers as may be necessary to enable it to perform its functions, promote planning and carry out all the purposes and powers enumerated in SDCL 11-4 and 11-6 and acts amendatory thereof.

(Ord. No. 780, § 1, 11-18-13)

SECTION 2-46. PREPARATION OF COMPREHENSIVE PLAN

The Planning Commission of Dell rapids shall propose a comprehensive plan for the physical development of the City pursuant to the terms of SDCL 11-4 and 11-6. The general purpose of the comprehensive plan shall be to guide and accomplish a coordinated and harmonious development within the City. After the comprehensive plan has been adopted according to law, no substantial amendment or modification thereof shall be made, without the proposed change first being referred to the Planning Commission for its recommendations.

(Ord. No. 780, § 1, 11-18-13)

SECTION 2-47. ZONING REGULATIONS

It shall be a duty of the Planning Commission to recommend the boundaries of zoning districts and appropriate regulations to be enforced therein, in accordance with the comprehensive plan. The Planning Commission shall prepare regulations governing land uses and building or set-back lines in accordance with SDCL 11-4 and 11-6. All applications and proposals for charges in or amendments to the zoning regulations shall be first submitted to the Planning Commission for its recommendations.

(Ord. No. 780, § 1, 11-18-13)

SECTION 2-48. SUBDIVISION PLANS AND REGULATIONS

All plans, subdivisions or resubdivisions of land within the jurisdiction of the City shall first be submitted to the Planning Commission for its recommendation before approval by the City Council. The Planning Commission shall prepare and recommend to the City Council regulations governing the subdivision of land within its jurisdiction. No amendments or charges thereto shall be made without recommendation by the Planning Commission.

(Ord. No. 780, § 1, 11-18-13)

CHAPTER 3 – ADVERTISING*

***State law reference(s)--**Highway beautification and regulation of advertising, SDCL ch. 31-29.

Article I. In General

Section 3-1. Bill posting in streets
Section 3-2. Bill posting in private places
Sections 3-3 - 3-15. Reserved

Article II. Distribution of Handbills

Section 3-16. Definitions
Section 3-17. Exemption for mail and newspapers
Section 3-18. Restricted in public places
Section 3-19. Placing on vehicles
Section 3-20. Depositing on uninhabited or vacant premises
Section 3-21. Prohibited where properly posted
Section 3-22. Inhabited private premises

ARTICLE I. IN GENERAL

SECTION 3-1. BILL POSTING IN STREETS

No person shall attach, place, paint, write, stamp or paste any sign, advertisement, or any other matter upon any lamppost, electric light, railway, telegraph, or telephone pole, shade tree, fire hydrant; or on any bridge, pavement, sidewalk or crosswalk, public building or any property or thing belonging to the city, or on any article or thing within any park. Public officers posting any notice required or permitted by law shall be excepted from the provisions of this section.

State law reference(s)--Signs and advertising in public places, SDCL 9-30-3.

SECTION 3-2. BILL POSTING IN PRIVATE PLACES

No person shall attach, place, paint, write, stamp, or paste any sign, advertisement, or other matter upon any house, wall, fence, gate, post, tree, without first having obtained the written permission of the owner, or occupants of the premises and having complied with all provisions of this Code pertaining thereto.

SECTIONS 3-3 – 3-15. RESERVED

ARTICLE II. DISTRIBUTION OF HANDBILLS*

***Cross reference(s)--**Nuisances and offensive conditions, Ch. 12, § 12-16 et seq.

State law reference(s)--Authority to regulate distribution of handbills, SDCL 9-30-3.

SECTION 3-16. DEFINITIONS

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them:

Handbill. Any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet or any other printed or otherwise reproduced original or copies of any matter of literature.

Newspaper. Any newspaper of general circulation as defined by general law, any newspaper duly entered with the post office department of the United States, in accordance with federal statute or regulation, and any newspaper filed and recorded with any recording officer as provided by general law; and in addition thereto, shall mean and include any periodical or current magazine regularly published with not less than four (4) issues per year, and sold to the public, and shall mean and include any other copyrighted material.

Vehicle. Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks.

SECTION 3-17. EXEMPTION FOR MAIL AND NEWSPAPERS

The provisions of this article shall not apply to the distribution of mail by the United States, nor to newspapers, except that newspapers shall be placed on private property in such a manner as to prevent their being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

SECTION 3-18. RESTRICTED IN PUBLIC PLACES

It shall be unlawful for any person to hand out or distribute or sell any handbill in any public place; except that a handbill may be personally delivered to any person willing to accept the same.

Cross reference(s)--Streets, sidewalks and other public places, Ch. 19.

SECTION 3-19. PLACING ON VEHICLES

No person shall throw or deposit any handbill in or upon any vehicle.

Cross reference(s)--Traffic and motor vehicles, Ch. 20.

SECTION 3-20. DEPOSITING ON UNINHABITED OR VACANT PERMISES

It shall be unlawful for any person to throw or deposit any handbill in or upon any private premises which is uninhabited or vacant.

SECTION 3-21. PROHIBITED WHERE PROPERLY POSTED

No person shall throw, deposit or distribute any handbill upon any private premises, if requested by anyone thereon not to do so, or if there is placed on such premises a sign bearing the words: "No Trespassing," "No Peddlers or Agents," "No Advertisement," or any similar notice, indicating in any manner that the occupants of such premises do not wish to have their right of privacy disturbed, or to have any handbills left upon such premises.

SECTION 3-22. INHABITED PRIVATE PREMISES

No person shall throw, deposit or distribute any handbill in or upon private premises which are inhabited, except by handing or transmitting any such handbill directly to the owner, occupant or other person then present in or upon such private premises. Provided, however, that in case of inhabited private premises which are not posted, such person, unless requested by anyone upon such premises not to do so, may place or deposit any such handbill in or upon such premises if such handbill is so placed or deposited as to secure or prevent such handbill from being blown or drifted about such premises or sidewalks, streets or other public places, and except that mailboxes may not be so used when so prohibited by federal postal law or regulation.

CHAPTER 4 – ALCOHOLIC BEVERAGES*

***State law reference(s)--**Alcoholic beverages, SDCL tit. 35.

Section 4-1. Definitions.
Section 4-2. Traffic in alcoholic beverages prohibited except as authorized by SDCL tit. 35, as amended.
Section 4-3. Unlicensed business prohibited.
Section 4-4. Misdemeanor to violate liquor laws.
Section 4-5. Place of business of licensee.
Section 4-6. Licensing of on-sale dealers generally.
Section 4-6.1. Fees for on-sale and off-sale malt beverage dealers.
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Section 4-15. Additional on-sale alcoholic beverage licenses.
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SECTION 4-1. DEFINITIONS

As used in this chapter, the words and terms "intoxicating liquor," "nonintoxicating beer," "nonintoxicating wine," "alcoholic beverage," "alcohol," and other such words and terms shall be construed to have the same meaning as given them by SDCL 1967, Section 35-1-1.

SECTION 4-2. TRAFFIC IN ALCOHOLIC BEVERAGES PROHIBITED EXCEPT AS AUTHORIZED BY SDCL TIT. 35, AS AMENDED

No person shall produce, transport, store or sell within the city or within one mile of its territorial limits any alcoholic beverage as defined by statute except as authorized by SDCL tit. 35, as amended.

SECTION 4-3. UNLICENSED BUSINESS PROHIBITED

No person, unless he first obtains a license provided by SDCL tit. 35, as amended, shall transact the business authorized by such title to be conducted by such licensee within the city or within one mile of its territorial limits.

SECTION 4-4. MISDEMEANOR TO VIOLATE LIQUOR LAWS

Any licensee under the provision of SDCL tit. 35, as amended, and this chapter, or other person who shall violate any of the provisions of such title or of this chapter or shall fail to comply therewith within the city or within one mile of its territorial limits shall be guilty of a misdemeanor.

SECTION 4-5. PLACE OF BUSINESS OF LICENSEE

The place of business of a licensee shall be within the premises as described in his license. Such premises must conform to all requirements of the state and the city and be a safe and proper place.

SECTION 4-6. LICENSING OF ON-SALE DEALERS GENERALLY

(a) The following classification and fee is established for certain on-sale dealers in distilled spirits, wines and malt beverages, who, pursuant to SDCL 35-4-13.1, are required to purchase alcoholic beverages for resale from the municipal off-sale establishment:

On-sale dealer: Any person who previously held a Class "Q" or "Bottle Club" license within the city effective July 1, 1971, and who will sell, keep for sale, any alcoholic beverage other than low point beer for consumption on the premises where sold, fee . . . . $1,200.00.

(b) Each licensee classified under this section and pursuant to SDCL 35-4-13.1 (Chapter 211 of the South Dakota Session Laws of 1971) shall buy its alcoholic beverages from the city and shall be subject to all provisions of SDCL tit. 35 of the South Dakota Compiled Laws, relating to the operation of an on-sale licensee. Alcoholic beverages will be purchased by such licensees at ten (10) per cent over and above the actual costs, excluding costs of transportation.

(Ord. No. 265, § 4, 9-7-71; Ord. No. 325, §§ 3, 4, 11-30-76)

SECTION 4-6.1. FEES FOR ON-SALE AND OFF-SALE MALT BEVERAGE DEALERS

(a) The following classifications and fees are established for certain on-sale and off-sale dealers in malt beverages:

Malt beverage retailers, being both package dealers and on-sale dealers $250.00

Malt beverage package dealers 150.00

(b) Each licensee classified under this section and pursuant to SDCL 35-4-2(16) and (17) shall buy its malt beverages from the city and shall be subject to all provisions of SDCL tit. 35. Malt beverages will be purchased by such licensee at ten (10) per cent over and above the actual costs, plus freight.

(Ord. No. 438, § 1, 3-23-88)

SECTION 4-7. SUNDAYS SALES BY ON-SALE DEALERS

(a) The city shall allow current retail on-sale liquor licensees, who have paid their current property taxes on such business facilities, the right to sell, serve or allow to be consumed alcoholic beverages between the hours of 1:00 p.m. and 12:00 midnight on Sunday with the serving of food where the licensee has facilities for the serving of prepared meals from a fixed restaurant with a simultaneous seating capacity of at least thirty-five (35) patrons.

(b) The fee for the extra-hours privilege under this section for a current on-sale liquor licensee shall be two hundred dollars ($200.00).

(Ord. No. 280, § 2, 10-2-73; Ord. No. 450, 10-3-89)

State law reference(s)--Authority for this section, SDCL 35-4-2.1.

SECTION 4-8. CLOSING OF PREMISES OF PUBLIC FACILITY ON-SALE DEALER

Every public facility on-sale dealer in alcoholic beverages, distilled spirits, wines and malt beverages other than low-point beer shall flash the lights of his place of business at 1:45 a.m. each day as a warning that within fifteen (15) minutes the licensed premises will close. At 2:00 a.m., every such public facility on-sale dealer shall clear his premises of all persons except employees and shall lock all doors to such premises and shall turn out all lights thereon except such a night light as is approved by the city. Such night light shall burn from 2:00 a.m. until daylight of the following day. Each such public facility on-sale dealer and his employees shall leave the place of

business or premises by 2:30 a.m. Every such public facility on-sale dealer, after closing his place of business as aforesaid at 2:00 a.m. on Sunday morning, shall keep the same closed and locked until 7:00 a.m. on the following Monday morning; provided, however, that the dealer may enter the premises or authorize one of his employees to enter his premises at any time for the purpose of reasonable maintenance of the premises. For the purpose of this section, "reasonable maintenance" shall be construed to mean only such maintenance as is necessary to prevent the deterioration or destruction of the premises or any fixtures located thereon. The purpose of this section is that the premises shall be wholly vacant during the closed period, except as hereinbefore provided. Provided, however, that any of the public facility on-sale dealers having on their licensed premises a duly authorized restaurant pursuant to and in conformity with SDCL ch. 34-18, and acts amendatory thereto, and who complies with all ordinances applicable thereto, and which restaurant is operated in a room separate and apart from the room wherein intoxicating liquor is or can be dispensed may, notwithstanding anything to the contrary as hereinbefore set forth, continue to operate exclusively as a restaurant; provided that all intoxicating liquor and the facilities for dispensing same thereof be isolated and contained in a separate room devoted principally to the use of dispensing and consuming of alcoholic beverages and which room with its alcoholic contents is vacated, closed and locked as hereinbefore provided.

SECTION 4-9. HOURS OF OPERATION OF MUNICIPAL LIQUOR STORE

The hours of operation of the municipal liquor store in the city shall be those hours prescribed in SDCL tit. 35.

SECTION 4-9.1. SUNDAY SALES OF ALCOHOLIC BEVERAGES AUTHORIZED FOR OFF-SALE LICENSEES

Off-sale licensees may sell alcoholic beverages on Sundays between the hours of 12:00 noon and 12:00 midnight.

(Ord. No. 721, § 1, 11-17-08)

SECTION 4-10. INTOXICATION ON LICENSED PREMISES

No licensee shall permit any person to become intoxicated on the premises described on the license.

State law reference(s)--Similar provisions, SDCL 35-2-6.6.

SECTION 4-11. CONSUMPTION, MIXING OF ALCOHOLIC DRINKS IN PUBLIC

(a) It shall be unlawful for any person to drink or consume any alcoholic beverage, or to mix or blend any alcoholic beverage with any other beverage, regardless of whether such beverage is an alcoholic beverage, in any public place, other than upon the premises of a licensed on-sale dealer where such alcoholic beverage was purchased from such dealer for on-sale purposes. For the purpose of this section the *public place* shall mean any place, whether within or without a building, commonly and customarily open to or used by the general public, including any street, highway, alley and sidewalk. However, this section shall not apply if the city council gives prior authorization for persons to consume or blend alcoholic beverages, but not to engage in the sale thereof, in or on property described by the city council, which property is publicly owned or owned by a nonprofit corporation. The permit period shall not exceed twenty-four (24) hours, and hours of authorized consumption shall not exceed those permitted for on-sale licenses.

State law reference(s)--Similar provisions, SDCL 35-1-5.3.

(b) It shall be unlawful for any person to possess in any public place other than upon the premises of a licensed on-sale dealer any alcoholic beverage other than in a package upon which the required stamps are affixed unless authorized by applicable provisions of state statute.

State law reference(s)--Similar provisions, SDCL 35-4-86.

(c) It shall be unlawful for any person to throw, cast or otherwise put in motion any bottle, can, glass or any other container at any other person or vehicle, whether moving or parked, or to dispose of or deposit any bottle, can, glass or other container upon any street, alley, highway, sidewalk or park.

(d) For the purpose of subparagraphs (a) and (b) of this section, the Dell Rapids Municipal park shall not be considered a *public place.*

(Ord. No. 384, § 1, 8-3-82; Ord. No. 439, 4-19-88; Ord. No. 508, § 2, 6-21-94)

SECTION 4-12. PERSONS TO WHOM SALE OF BEVERAGES PROHIBITED

No licensee of any class shall sell or give for use as a beverage any alcoholic beverage to any person under the age of twenty-one (21) years.

(Ord. No. 508, § 3, 6-21-94)

State law reference(s)--Similar provisions, SDCL 35-4-78.

SECTION 4-13. PROHIBITIONS IN VEHICLE

No person shall have a package or any receptacle containing an alcoholic beverage in his possession in a motor vehicle unless the seal of the original package remains unbroken or the alcoholic beverage is so removed that no occupant of the motor vehicle shall have access to it while the vehicle is in motion.

(Ord. No. 508, § 4, 6-21-94)

Editor's note--Section 4 of Ord. No. 508, adopted June 21, 1994, amended this section to read as herein set out. Formerly, § 4-13 pertained to prohibitions on licensed premises and derived from the 1978 Code.

State law reference(s)--Similar provisions, SDCL 35-1-9.1.

SECTION 4-14. PURCHASE, POSSESSION OR CONSUMPTION OF ALCOHOLIC BEVERAGE BY PERSON UNDER TWENTY-ONE PROHIBITED; MISREPRESENTATION OF AGE

No person under the age of twenty-one (21) years shall purchase or attempt to purchase any alcoholic beverage, nor shall any person under the age of twenty-one (21) years drink any alcoholic beverage or have any alcoholic beverage in his possession, except when consumed in a religious ceremony and given to said person by an authorized person; or to misrepresent his age with the use of any document for the purpose of purchasing or attempting to purchase any alcoholic beverage from any licensee.
(Ord. No. 508, § 5, 6-21-94)

Cross reference(s)--Minors generally, Ch. 14.

State law reference(s)--Similar provisions, SDCL 35-9-2.

SECTION 4-15. ADDITIONAL ON-SALE ALCOHOLIC BEVERAGE LICENSES

Pursuant to SDCL 35-4-11, there is hereby fixed and determined, for possible issuance and use, four (4) additional on-sale alcoholic beverage licenses within the city, in addition to the license of the city and the "grandfathered" former class "Q" license of the former "Dutch Inn." Each license, if issued, shall be issued in the name of the city and used by the successful applicant-operator under an operating agreement in accordance with SDCL 35-4-21. All alcoholic beverages shall be purchased from the municipal off-sale establishment. The fee for each license, to be paid by the successful applicant-operator, shall be one thousand two hundred dollars ($1,200.00) per year.

(Ord. No. 654, § 1, 8-18-03; Ord. No. 752, § 1, 1-17-12)

SECTION 4-16. NUMBER OF OFF-SALE ALCOHOLIC BEVERAGE LICENSES

Pursuant to SDCL 35-4-11, it is hereby fixed and determined that the number of off-sale alcoholic beverage licenses within the city shall be limited to 4 (four). Said off-sale licenses shall be issued to and held in the name of the City of Dell Rapids.

Editor's note--Section 1 of Ord. No. 768, adopted October 15, 2012, amended this article to read as herein set out. Formerly, this section pertained to special event alcohol licensing and derived from of Ord. No. 761, adopted 4-16-12.

(Ord. No. 761, 4-16-12; Ord. No. 768, § 1, 10-15-12)

CHAPTER 5 – AMUSEMENTS*

***Cross reference(s)--**Parks and recreation, Ch. 15.5.

State law reference(s)--Public dancehalls, SDCL ch. 42-4.

Article I. In General

Section 5-1. Circuses, street performances, etc.
Section 5-2. Musical instruments in public places.
Sections 5-3 – 5-15. Reserved.

Article II. Outdoor Dances, Concerts and Similar Entertainment

Section 5-16. Definitions.
Section 5-17. License required.
Section 5-18. Application.
Section 5-19. Supplemental items; license fee.
Section 5-20. Application procedure.
Section 5-21. Waiver of requirements.
Section 5-22. Violation of application/license.
Section 5-23. Activity facilities.
Section 5-24. Official supervision.
Section 5-25. Additional law enforcement.
Section 5-26. Traffic and parking.
Section 5-27. Cleanup; damage.
Section 5-28. Disorderly conduct; disturbances.
Section 5-29. Alcoholic beverage regulations.
Section 5-30. Days and hours of operation.
Section 5-31. Certain conduct prohibited.
Section 5-32. Violation.
Section 5-33. Display of permit.
Section 5-34. Revocation of permit.
Section 5-35. Reapplication.

ARTICLE I. IN GENERAL

SECTION 5-1. CIRCUSES, STREET PERFORMANCES, ETC.

The owner, manager, or any person in possession of any circus, menagerie, tent show, shooting gallery, traveling theatre, exhibition or entertainments of like nature or description shall pay to the city, before conducting such business, exhibition or parade as the case may be, a license to be fixed by the city council at the first meeting of the council in May of each year, or whenever the same

may be necessary, provided, however, that this provision shall not apply to persons owning or conducting a regular established theatre or motion picture show business in the city or any concert or public entertainment given by amateurs for charity uses or for public benefit.

(Ord. No. 128, § 59, 2-2-26)

State law reference(s)--Authority to license, regulate exhibitions, shows, amusements, SDCL 9-34-13; authority to license, regulate pool and billiard rooms and bowling alleys, SDCL 9-34-14.

SECTION 5-2. MUSICAL INSTRUMENTS IN PUBLIC PLACES

No person having under his control any public place or store shall play, or allow to be played or operated any musical instrument, radio or mechanical musical device in such store or place in such manner as to disturb and annoy the public.

SECTIONS 5-3 – 5-15. RESERVED

ARTICLE II. OUTDOOR DANCES, CONCERTS AND SIMILAR ENTERTAINMENT

***Editor's note--**Section 1 of Ord. No. 511, adopted Aug. 16, 1994, amended this article to read as herein set out. Formerly, Art. II consisted of §§ 5-16--5-23 and 5-30--5-32, which pertained to dance halls and dances and derived from §§ 1--11 of Ord. No. 220, adopted Sept. 1, 1964, and § 1 of Ord. No. 253, adopted Aug. 19, 1969.

SECTION 5-16. DEFINITIONS

For the purpose of this article, the following words, terms and phrases shall have the meanings ascribed to them herein, unless the context clearly indicates otherwise:

Outdoor shall mean not totally enclosed within a building or other structure; and *enclosed* shall mean totally surrounded by walls, roof or other enclosure so as to prevent the escape of the noise or sound of whatever is going on within. Open windows, doors or the like that allow the noise or sound to escape and potentially disturb the peace of anyone else shall cause the activity within to constitute an outdoor activity.

Outdoor dance, concert or similar entertainment shall mean any such event or happening whether on private or public property, whether the same is a private or exclusive event or happening or open to the public, and whether the same is free of charge or subject to charge, admission or cover fee or similar cost or reimbursement, whether direct or indirect, whatsoever. "Outdoor dance,

concert or similar entertainment" shall be liberally construed, and the city council shall be the final interpreter as to whether any event of happening shall fit within the definition of "outdoor dance, concert or similar entertainment."

Ultimate fight event shall mean any activity, regardless of how named or described, which involves any scheduled, sponsored, or permitted physical exhibitions or contest involving two or more persons engaged in fighting. This shall include any contest of event where kicking, punching, martial arts, or submission holds are permitted, but shall not include contests of only wrestling or boxing sanctioned by law, or any school events or competitions, or any martial arts training or contests governed and sponsored by schools of martial arts.

(Ord. No. 511, § 1, 8-16-94; Ord. No. 743, § 2, 3-21-11)

SECTION 5-17. LICENSE REQUIRED

No person, corporation, organization or other entity shall manage, hold, conduct, permit or otherwise maintain any ultimate fighting event or any outdoor dance, concert or similar entertainment within the city limits of the city or within one mile of the city limits of the city, without first obtaining a license thereof, as provided herein.

(Ord. No. 511, § 1, 8-16-94; Ord. No. 743, § 3, 3-21-11)

Cross reference(s)--Licenses generally, Ch. 13.

SECTION 5-18. APPLICATION

Any applicant for the license described in section 5-17 above shall file an application with the city council at least thirty (30) days prior to the proposed event, and the application shall contain the following information:

(1) Applicant's name, and street and mailing address.

(2) If applicant is a corporation, names and street and mailing addresses of all officers and directors.

(3) If applicant is a partnership, names and street and mailing addresses of all partners.

(4) If applicant is a noncorporate organization or other joint venture, the names and street and mailing addresses of all officers, if any, all directors, if any, and if there are no officers nor directors, names and street and mailing addresses of at least three (3) primary or responsible persons of the organization or venture, all of whom must sign the application.

(5) Location or place of the event, including street address, if any, and the parameters or boundaries, with specificity, including exits.

(6) Date(s) of the event.

(7) Proposed time(s) and hours of operation.

(8) Type of entertainment (dance, concert, or other) with specificity, including name of band or other entertainment.

(9) Approximate or projected number of people who may attend the event(s).

(10) Whether alcoholic beverages will be sold, served, consumed or otherwise provided.

(11) If alcoholic beverages are to be present, whether "underage" persons will be allowed to attend.

(12) If alcoholic beverages are present and "underage" persons are allowed, applicant's specific plan to provide proper barriers or separation as required by statutory law.

(13) The number of private security persons who will be on duty and their type, kind or level of training, experience or expertise.

(14) The number, kind and location(s) of restroom facilities and trash receptacles.

(15) The plan for parking and traffic flow, including parking location(s) and regulation, with specificity.

(16) The plan for cleanup following the event, including the number of persons involved, the means and method of disposal of trash and refuse, the location of dumping and the proposed deadline that cleanup will be completed.

(17) If the application is for an ultimate fighting event, the applicant shall also provide the following additional information where applicable:

(a) The person, group, association, or body to be authorized under the permit to do such act or activity and the number of persons to participate.

(b) Acknowledgment that any person or business who allows participants to enter the ring without valid health insurance assumes the liability for all medical expenses incurred for any bodily injury sustained by the participants.

(c) Proof of a bond or certificate of liability insurance, in the amount of at least $1,000,000.00, indemnifying the public against damages sustained as a result of holding the ultimate fighting event. Such bond or certificate of insurance shall be subject to the approval by the city attorney.

(d) Proof that at least two (2) qualified paramedics or equivalent qualifications acceptable to the issuing authority will be present ringside during the event.

(e) Proof that the act or activity will be under the direction and control of an adult referee in the ring who has at least one year's experience in refereeing a match or exhibition involving a combination of combative techniques and who has passed a physical examination by a license physician, including an eye examination, within two years prior to the event.

(f) Proof that the ultimate fighting event will be between medically fit and adult contestants who are not disqualified from competing in another jurisdiction at the time of the event.

(g) Acknowledgment that the ultimate fighting event will be held indoors and not in any park or other city-owned facility.

(h) Acknowledgment that children between the ages of 14 and 18 shall be allowed to observe the ultimate fighting event but only if accompanied by a parent or legal guardian.

(i) Acknowledgment that all contestants and observers shall be required to provide proof of age by displaying valid picture identification to event staff before entering the premises.

(18) Such other relevant information as the city council or the city officials may require for the investigation of the applicant.

(Ord. No. 511, § 1, 8-16-94; Ord. No. 743, § 4, 3-21-11)

SECTION 5-19. SUPPLEMENTAL ITEMS; LICENSE FEE

The license applicant, in addition to the application, shall submit at the same time a certificate or other proof of liability insurance in the amount(s) and coverage(s) that the city council (or city park and recreation board) may require; and shall also submit at the same time a security, damage, cleanup, and reimbursement deposit in the form of a bond in favor of the city, or a cashier's check or money order made payable to the city, or cash, in the amount required by the city council (or city park and recreation board). The applicant may also be required to submit additional documents or items in support of or in verification of the application. Finally, the applicant shall, at the same time, submit an application/license fee of one hundred dollars ($100.00).

(Ord. No. 511, § 1, 8-16-94)

SECTION 5-20. APPLICATION PROCEDURE

Following submission of the application and all other required items and documents and application/license fee, the applicant shall meet with the public safety committee (or jointly with such committee and the appropriate committee of the city park and recreation board), to answer

any questions, provide any additional or supplemental information, to receive suggestions or to otherwise work out any details to the satisfaction of the applicant and applicable committee. Following one or more committee meetings, the application shall then be considered by the city council (or city park and recreation board) who shall hear the recommendation of the committee and may hear from the applicant. Following one or more council or board meetings, the council or board may approve the application, approve the application with amendments, or reject the application. Approval, if any, of the application as is, or as amended, shall constitute the license sought for.

(Ord. No. 511, § 1, 8-16-94)

SECTION 5-21. WAIVER OF REQUIREMENTS

The city council (or city park and recreation board) shall have the right to waive any requirement otherwise contained in the application, including the insurance, deposit or license fee, or an appropriate amount or percentage thereof, if in its judgment the minimal size of the event or the type of the event or the charitable or civic nature of the event or organization holding or promoting the same warrant any such waiver.

(Ord. No. 511, § 1, 8-16-94)

SECTION 5-22. VIOLATION OF APPLICATION/LICENSE

It shall be unlawful for any applicant or any person acting on behalf of any applicant to violate any provision of his or its application or requirement of the license issued pursuant thereto.

(Ord. No. 511, § 1, 8-16-94)

SECTION 5-23. ACTIVITY FACILITIES

The applicant shall provide appropriate and safe facilities for the activity or event, including such lighting, restroom facilities, trash receptacles and exits as may be warranted by the estimated crowd size or as otherwise required by the appropriate city authorities.

(Ord. No. 511, § 1, 8-16-94)

SECTION 5-24. OFFICIAL SUPERVISION

The public safety committee of the city council (and, if applicable, the city park and recreation board) and the law enforcement agency or unit of the city council (on the date hereof, the Minnehaha County Sheriff's Department) shall have supervision of all outdoor dances, concerts or

similar entertainment. As such, they, along with the city council, shall have authority to make revisions and changes in the application and in the manner of carrying out the applied-for activity.

(Ord. No. 511, § 1, 8-16-94)

Cross reference(s)--Parks and recreation, Ch. 15.5.

SECTION 5-25. ADDITIONAL LAW ENFORCEMENT

The public safety committee and the city's law enforcement agency (on the date hereof, the Minnehaha County Sheriff's Department) may deem it necessary to provide or contract for additional law enforcement for the city or for the area around the event site, at or about the time(s) of the event. It shall be the responsibility of the applicant to pay for such additional enforcement, without question; and the amount therefore may be projected and included in the deposit amount to be submitted with the application, or the city may require an additional deposit to be made to cover such additional law enforcement cost prior to the date(s) of the proposed event.

(Ord. No. 511, § 1, 8-16-94)

Cross reference(s)--Police generally, Ch. 17.

SECTION 5-26. TRAFFIC AND PARKING

The applicant shall ensure that all public rights-of-way, streets, alleys, sidewalks and other regularly travelled grounds, including private driveways and driveway approaches are kept open and not blocked, even temporarily, unless prior specific permission has been granted by the appropriate city authorities. In addition, the applicant shall ensure that no event parking is allowed on and along any such public right-of-way nor in any public park or otherwise on any public property without prior specific permission from city authorities. The applicant shall, if required by the city, post appropriate signs to prohibit the blocking of traffic and/or to prohibit unauthorized or unlawful parking, and any other appropriate signs required by the city.

(Ord. No. 511, § 1, 8-16-94)

Cross reference(s)--Streets, sidewalks, and other public places, Ch. 19; traffic and motor vehicles, Ch. 20.

SECTION 5-27. CLEANUP; DAMAGE

The applicant shall be responsible for all cleanup and trash removal on the event site and in the surrounding area. In addition, applicant shall be responsible for damage to any city property,

including but not limited to tables, chairs, benches, trees, shrubbery, flowers, etc. on the event site and in the surrounding area.
(Ord. No. 511, § 1, 8-16-94)

SECTION 5-28. DISORDERLY CONDUCT; DISTURBANCES

The applicant and applicant's representatives shall cooperate fully with the security people and law enforcement officers in matters of crowd control, and especially in the event of potential disturbances or disorderly conduct or similar activity.

(Ord. No. 511, § 1, 8-16-94)

Cross reference(s)--Disorderly conduct, § 15-35; disturbing the peace, § 15-36.

SECTION 5-29. ALCOHOLIC BEVERAGE REGULATIONS

Applicant shall obey all alcoholic beverage laws and if alcoholic beverages are served, sold or otherwise provided or present, and if "underage" persons are invited or present, applicant shall specifically follow and obey all laws with regard to the separation of "underage" persons from those "of age."

(Ord. No. 511, § 1, 8-16-94)

Cross reference(s)--Alcoholic beverages generally, Ch. 4.

SECTION 5-30. DAYS AND HOURS OF OPERATION

Applicant shall operate the event(s) only on the day(s) and during the hours approved by the appropriate city authorities. Unless otherwise specifically approved by the city no outdoor dances, concerts or similar entertainment events at which alcoholic beverages will be sold, served, consumed, provided or otherwise present shall not be held on the following days nor during or after the following hours:

(1) Christmas Day.
(2) If on Christmas Eve, not after midnight.
(3) Memorial Day, except if the event is held the day or evening before Memorial Day, the event shall not run beyond 1:00 a.m. of Memorial Day.
(4) Sundays, except if the event is held on a Saturday or Saturday evening, the event shall not run beyond 1:00 a.m. of the Sunday following the Saturday event.
(5) If on a Monday, Tuesday, Wednesday or Thursday, the event shall not run beyond 1:00 a.m. of the following morning.
(6) If on a Friday, the event shall not run beyond 1:00 a.m. of the following morning.

(7) If on a Saturday, the event shall not run beyond 1:00 a.m. of the following morning.

Outdoor dances, concerts or similar entertainments are generally discouraged on all nights except Friday and Saturday, if the event shall run past 11:00 p.m.

(Ord. No. 511, § 1, 8-16-94)

SECTION 5-31. CERTAIN CONDUCT PROHIBITED

It shall be unlawful for any person conducting, maintaining or operating an outdoor dance, concert or similar entertainment, or any such event whether indoor or outdoor, or any place of business or location holding or sponsoring such an event, to encourage, allow or permit any person in attendance thereat, to dance or participate in any immodest, suggestive, lewd or immoral dance. No person in attendance at any such event or place shall engage in any immodest, suggestive, lewd or immoral dance.

(Ord. No. 511, § 1, 8-16-94)

SECTION 5-32. VIOLATION

Anyone found in violation of this chapter shall be subject to a $200.00 fine for such violation, and law enforcement shall have the discretion to stop any event from occurring if it is found that such event is occurring without a valid permit in place.

(Ord. No. 511, § 1, 8-16-94; Ord. No. 743, § 5, 3-21-11)

SECTION 5-33. DISPLAY OF PERMIT

Every person having a permit issued under the provisions of this article shall have the permit in his possession during the activity permitted thereby, and shall display the permit upon the request of any law enforcement officer. Failure to display the permit shall be unlawful.

(Ord. No. 743, § 6, 3-21-11)

SECTION 5-34. REVOCATION OF PERMIT

(1) The city council may revoke a permit required under this article at any time if information is obtained after the permit is issued from which the city council may reasonably conclude that the permit should have been denied.

(2) The mayor or law enforcement may also revoke the permit if he/she finds:

(a) The person, group, association, or body which had been authorized under the permit has deviated or will deviate from what was approved in the permit;

(b) The contestants or attendees are violating the law or permit conditions; or

(c) Other emergency requires the event to be concluded to protect public safety.

Prior to terminating the event pursuant to subsection (2)(a), (b), or (c) of this section, the city official must warn the participants and provide them with an opportunity to return to compliance with the permit conditions.

(Ord. No. 743, § 6, 3-21-11)

SECTION 5-35. REAPPLICATION

The City Council shall have discretion to deny a permit if the applicant is found to have been in violation of any of the provisions of this chapter within the past year.

(Ord. No. 743, § 6, 3-21-11)

CHAPTER 6 – ANIMALS AND FOWL*

***Cross reference(s)--**Animals protected, trapping prohibited in parks, §§ 15.5-67, 15.5-68.

State law reference(s)--Regulation of animals, SDCL 9-29-12; animals and livestock, SDCL tit. 40.

Article I. In General

Section 6-1. Definitions
Section 6-2. Running at large prohibited
Section 6-3. Cruelty to animals
Section 6-4. Swine
Section 6-5. Number of cats limited
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ARTICLE I. IN GENERAL

SECTION 6-1. DEFINITIONS

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them:

Animal pound. A building and facilities therein which is approved by the city council and the health authority for the impoundment of animals.

At large. An animal shall be deemed to be running at large when off or away from the premises and not under the control of the owner, possessor, keeper, agent, servant or a member of his immediate family by a leash.

Exotic Animal. Any animal not occurring naturally in the Unites States either currently or historically. Alleged domestication of any exotic animal shall not affect its status under this definition.

Fowl. Means chickens, ducks, geese, turkeys, pheasants, quail, partridge, guineas, or other domestic birds.

Leash. A cord, thong or chain by which an animal is controlled by the person accompanying it.

Owner. Any person harboring or keeping an animal, and the occupancy of any premises on which an animal remains or to which it customarily returns daily for a period of ten (10) days, is presumed to be harboring or keeping the animal within the meaning of this chapter.

Pigeons. Means any kind of pigeon whether wild or kept as a pet, or for hobby purposes such as breeding, showing or sporting.

Poundmaster or *humane officer.* Some person designated to be responsible for the care and maintenance of the animal pound and who shall work with other law enforcement officials in the enforcement of this chapter.

(Ord. No. 210, § 1, 6-7-60; Ord. No. 844, § 1, 2-6-17; Ord. No. 854, § 1, 7-2-18)

SECTION 6-2. RUNNING AT LARGE PROHIBITED

No owner of any animal shall permit such animal to run at large within the city at any time.

(Ord. No. 128, § 22, 2-2-26)

Cross reference(s)--Streets, sidewalks and other public places, Ch. 19.

SECTION 6-3. CRUELTY TO ANIMALS

No person shall wilfully or negligently maltreat or abuse or neglect in a cruel or inhuman manner any animal or fowl.

(Ord. No. 128, § 113, 2-2-26)

State law reference(s)--Cruelty, abuse and injury to animals, SDCL ch. 40-1; municipal authority to prohibit and punish cruelty to animals, SDCL 9-29-11.

SECTION 6-4. SWINE

It shall be unlawful for any person to keep swine, except pot-bellied pigs, within the city limits. It shall be unlawful for any person to keep more than two (2) pot-bellied pigs over the age of six (6) months. Owners of pot-bellied pigs shall be required to license such animals in the same manner as provided for dogs or cats under section 6-25 and shall also comply with the immunization requirements found in section 6-26.

(Ord. No. 539, § 1, 7-2-96)

SECTION 6-5. NUMBER OF CATS LIMITED

No person shall keep more than five (5) cats per dwelling unit in the city.

SECTION 6-6. HORSES PROHIBITED ON HARD-SURFACED ROADS

No person shall ride or permit any horse on the hard-surfaced roads of the city, except with permission of city council for special events.

SECTION 6-7. VICIOUS ANIMALS

(a) An authorized representative of the Sioux Falls Humane Society or any law enforcement officer may declare an animal to be vicious, or the attending physician of the victim of an animal bite or scratch may request such declaration, under the following guidelines:

(1) An animal which, when unprovoked, in a vicious or terrorizing manner approaches in apparent attitude of attack, or bites, inflicts or causes injury, assaults or otherwise attacks a person or other animal upon the streets, sidewalks or any public grounds or places; or

(2) An animal which, on private property, in a vicious or terrifying manner approaches in apparent attitude of attack, or bites, or inflicts or causes injury, or otherwise attacks a mailman, meter reader, serviceman, journeyman, deliveryman, or other person or other animal who is on private property by invitation or permission of the owner or occupant of such property or who is lawfully on private property by reason of a course of dealing with the owner of such private property;

(3) No animal may be declared vicious if the injury or damage is sustained to any person or animal who was committing a willful trespass or other unlawful act or tort upon premises occupied by the owner or keeper of the animal, or who was teasing, tormenting, abusing or assaulting the animal or was committing or attempting to commit a crime, or otherwise where the animal control officer determines that the bite or injury was justified.

(b) When an animal has been declared vicious, the owner shall be notified in writing of the declaration and shall comply with the following:

(1) If the animal is indoors, the animal shall be under the control of a person eighteen (18) years of age or older.

(2) If the animal is outdoors and attended, the animal shall be muzzled, on a leash no longer than six (6) feet and under the control of a person eighteen (18) years of age or older.

(3) If the animal is outdoors and unattended, the animal must be securely enclosed and locked in a pen or structure, suitable to prevent the entry of young children and designed to prevent the animal from escaping. Such pen or structure must have minimum dimensions of five (5) feet by ten (10) feet and must have secure sides and a secure top. If the pen does not have a bottom secured to the sides, the sides must be embedded into the ground no less than two (2) feet. The enclosure must also provide the animal with adequate protection from the elements.

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

(5) The owner shall carry one hundred thousand dollars ($100,000.00) liability insurance covering the medical and veterinary costs resulting from vicious actions or any other damage the animal may do or cause to be done. Such insurance shall name the City of Dell Rapids as an additional insured for the sole purpose of receiving notification from the insurance company of any cancellation, termination or expiration of the policy.

(6) The owner shall present proof to the city animal control officer that the animal has current rabies vaccinations and a current city license.

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

(8) The owner or keeper shall immediately notify the city animal control officer if the animal is loose, unconfined, has attacked another animal or human being, has died or was sold or given away. If the animal has been sold or given away, the owner or

keeper shall provide the name, address and telephone number of the new owner, who shall also comply with the provisions of this section.

(c) If the conditions in (b) are not complied with, the animal shall be delivered to or seized by the Sioux Falls Humane Society at the owner's expense and the owner shall be ordered to appear in court to show cause why this animal should not be destroyed.

(d) Any vicious animal found off the premises of its owner, other than as provided in this section, shall be seized by the city official, agent or animal control officer and impounded. If the animal cannot be captured, it may be destroyed. If the animal has been seen running at large, or bites a person, or bites another animal, the city official, agent or animal control officer may order the owner to deliver the animal to the animal shelter within twenty-four (24) hours and the owner ordered to appear in court to show cause why this animal should not be destroyed. If the owner of an animal fails to deliver the animal as ordered, the city official, agent or animal control officer shall use such means as is necessary to impound the animal.

(Ord. No. 210, § 5, 6-7-60; Ord. No. 539, § 1, 7-2-96)

SECTION 6-8. DISTURBANCE OF PEACE

(a) The owner or custodian of an animal shall not allow the animal to disturb the peace of any other person. Disturbing the peace shall include barking, howling, yipping, whining or otherwise creating any noise or disturbance sufficient to disturb the peace or tranquility of another.

(b) Upon receipt of a written complaint of any animal disturbing the peace, the city shall cause a warning letter to be issued to the owner or custodian of the animal asking the person for his or her cooperation in keeping the animal from disturbing the peace.

(c) Upon receipt of a second written complaint involving the same animal, the city or its authorized agent or representative of the Sioux Falls Humane Society shall be authorized to seize and impound the animal. In addition, failure to comply with the first complaint and warning letter described above shall constitute an offense and subject the owner or custodian for fine therefore. The owner or custodian shall pay all costs and fine(s) according to the terms of section 6-13.

(Ord. No. 210, § 7, 6-7-60; Ord. No. 539, § 1, 7-2-96)

SECTION 6-9. STRAY, ABANDONED OR UNKEPT ANIMALS

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

SECTION 6-10. UNLAWFUL TO POISON

It shall be unlawful for any person to wilfully or maliciously administer or cause to be administered, poison of any sort whatsoever to any animal, the property of another, with the intent to injure or destroy such animal, or to wilfully or maliciously place any poison or poisoned food where the same is accessible to any such animal.

SECTION 6-11. KEEPING OF ANIMALS

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

(b) The keeping of pigeons or domestic fowl such as ducks, geese or chickens shall be by a licensed permit issue in accordance with section 6-32. The keeping of wild animals, such as skunks, fox, raccoons, birds of prey, coyotes or bears, or exotic animals as pets, shall be by special permission of the city council.

(c) It shall be unlawful to keep, maintain, harbor or possess wolves, wolf hybrids or the offspring of wolves cross bred with domestic dogs.

(Ord. No. 357, § 1, 4-1-80; Ord. No. 539, § 1, 7-2-96; Ord. No. 844, § 1, 2-6-17; Ord. No. 854, § 1, 7-2-18)

SECTION 6-12. RESPONSIBILITY

(a) Any person shall be held responsible for the creation or maintenance of any condition, or the operation of any equipment or the keeping of any animal, fowl, pet, or insect under his jurisdiction in such a way that such condition or operation causes or is likely to cause the transmission of diseases from animals or insects to man.

(b) When animals are used in a parade within the city limits, sponsors of said parade are responsible for cleaning up fecal matter left by any animals participating in the parade on public or private property, and must comply with section 5-27, pertaining to cleanup and damage.

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

(d) Anyone walking an animal on public or private property other than on his own property must carry with him visible means of cleaning up any fecal matter left by the animal. Animals involved in law enforcement are exempt from this subsection.

(Ord. No. 539, § 1, 7-2-96)

SECTION 6-13. COMPLAINT OR CITATION; IMPOUNDMENT

(a) Any person who violates any animal ordinance of the City of Dell Rapids is subject to civil or criminal prosecution. In addition to a private citizen complaint, the Sioux Falls Humane Society representative or any law enforcement officer agent shall be authorized to issue a complaint or citation for a violation of the animal ordinances of the City of Dell Rapids. Owners allowing their animal(s) to run at large (as defined in section 6-1) or otherwise violating any provision of this chapter, shall be fined a minimum of one hundred dollars ($100.00) for the first offense and a minimum of one hundred and fifty dollars ($150.00) for the second offense and two hundred dollars ($200.00) for the third and subsequent offenses committed within one (1) year. In addition, allowing more than one (1) animal to run at large at any one (1) time shall constitute more than one (1) offense at that time.

(b) In addition to any complaint or citation, an authorized city official or agent, or the Sioux Falls Humane Society, or any law enforcement officer is hereby authorized to impound any animal running at large or otherwise in violation of any of the provisions of this chapter. If the animal is licensed, said person may, at his or her discretion, contact the owner and/or issue a citation in lieu of impoundment. Any impounded animal transported to the Sioux Falls Humane Society will be kept and handled according to Humane Society procedures. If the impounded animal is not licensed, it will be transported immediately to the Sioux Falls Humane Society and be handled in accordance with Humane Society procedures for strays. No animal will be returned until all costs and fines are paid. The costs shall be the impound fee, travel costs, daily shelter, lodging and meal fees, the cost(s) of vaccination(s) and immunization(s), if necessary, and any other cost of the Humane Society or other impounding authority in capturing, impounding and otherwise dealing with the animal. Impoundment releases may be issued by the municipal finance officer or humane society official when all fines and fees are paid and proof of vaccinations furnished as stipulated in this chapter.

(c) The owner of an animal that bites a person and the person bitten shall report such occurrence to an animal control officer within twenty-four (24) hours of the occurrence. The owner of an animal that bites a person shall surrender said animal to an animal control officer or may board said animal at a qualified veterinarians or humane society for a period of ten (10) days from the date of bite. The owner of the animal shall bear the cost of confinement. The animal control officer may consent to confinement in the owner's premises but only if the owner can produce evidence of a current vaccination at the time the bite was inflicted.

(Ord. No. 210, § 4, 6-7-60; Ord. No. 357, § 2, 4-1-80; Ord. No. 421, § 1, 3-4-86; Ord. No. 525, § 1, 4-4-95; Ord. No. 539, § 1, 7-2-96; Ord. No. 775, § 1, 9-3-13)

SECTION 6-14. RESERVED

Editor's note--Ord. No. 539, § 3, adopted July 2, 1996, repealed former § 6-14 of the Code which pertained to vaccination of impounded animals and derived from Ord. No. 357, § 3, adopted April 1, 1980.

SECTION 6-15. FALSE INFORMATION

It shall be unlawful for any person to give any false information or statement concerning the owner of any animal, concerning the condition or health of any animal, or in connection with the procuring of a license for any animal.

(Ord. No. 357, § 4, 4-1-80)

SECTION 6-16. INJURED ANIMALS

If an animal is injured and owner is not readily known, it will be the duty of the animal control officer to determine if that animal for humane reasons due to the extent of the injury and the suffering, may be humanely destroyed. The city, humane society, and animal control officer shall not be held liable in any way for this humane act.

(Ord. No. 539, § 1, 7-2-96)

SECTION 6-17. DISPOSITION OF ABUSED ANIMALS

In cases where an animal or animals have been seized by the animal control officer based upon cruelty, neglect or abandonment, or in violation of any section of a state statute or city ordinance pertaining to the regulation of the keeping of animals, such animal may be adopted to another owner or humanely euthanized thereby extinguishing all property rights of the existing owner following the procedures as hereinafter provided:

(1) Upon seizure of the animal or animals, the animal control officer shall serve notice by means of certified letter or by personal service upon the existing owner, if the identity of said existing owner is known, informing said existing owner of the animal control officer's intent to have said animal disposed of.

(2) The existing owner shall have three (3) business days to:

a. Declare in writing and deliver to the animal shelter keeping said animal or animals:

1. Notice of said existing owner's interest to maintain ownership of the animal or animals and to object to the adoption or euthanasia thereof; and

2. Notice that said existing owner shall pay when due all impoundment, board and veterinary costs until such time as the animal or animals shall be released to said existing owner to be adopted or euthanized.

b. Pay all impoundment, board and veterinary costs, up to the date of the owner's declaration of intent to maintain his ownership of said animal or animals to the animal control shelter.

(3) Upon notification of said existing owner's intent to maintain ownership of the animal or animals and the objection to the adoption or euthanasia thereof said existing owner shall continue said payments to the animal control shelter for impoundment; board and veterinary costs on a weekly basis until such time as the animal or animals shall be released to said existing owner or be adopted or euthanized.

(4) If the existing owner of the animal or animals fails to declare the hereinbefore stated intent or fails to make any payment in a timely manner, or if the identity of said existing owner is unknown or notification to said existing owner cannot be made, ownership of the animal or animals will revert to the animal shelter.

(Ord. No. 548, § 1, 4-1-97)

SECTIONS 6-18 – 6-24. RESERVED

ARTICLE II. DOGS AND CATS

SECTION 6-25. LICENSING

Every owner of a dog or cat in the city shall, before May 1 of each year, pay to the municipal finance officer a license fee of five dollars ($5.00) for each dog or cat owned by the owner; and shall place on the dog or cat's neck a durable collar upon which shall be firmly attached a metal plate or tag to be furnished by the municipal finance officer, showing the year for which the license fee is paid and the tag number. The municipal finance officer shall also furnish to the owner a duplicate receipt showing the name and sex of the dog or cat, the name and address of the owner, the year for which the license fee is paid and the tag number. The municipal finance officer shall retain the original receipt in his records. No tag shall be attached to any dog or cat collar unless and until the license fee has been paid. Fowl and pigeons as permitted with an approved license in accordance with Section 6-32.

(Ord. No. 210, § 2, 6-7-60; Ord. No. 357, § 6, 4-1-80; Ord. No. 609, § 1, 12-4-00; Ord. No. 844, § 1, 2-6-17; Ord. No. 854, § 1, 7-2-18)

SECTION 6-26. IMMUNIZATION REQUIRED

(a) Every dog, cat or other animal held as a domestic pet in the city, six (6) months of age or older, is required to be immunized against rabies by a licensed veterinarian or other qualified person designated by the health officer. No dog or cat shall be licensed until the owner thereof presents a current, one-year rabies shot certificate. Immunization of rabies shall be given at such intervals as to guarantee immunity.

(b) Any owner acquiring a dog, cat or other animal held as a domestic pet, by purchase, gift, birth, or otherwise, shall have such dog or cat immunized against rabies within one (1) month following acquisition or within one (1) month after the dog or cat is six (6) months old, whichever last occurs.

(Ord. No. 357, § 7, 4-1-80; Ord. No. 421, § 2, 3-4-86; Ord. 774, § 1, 8-19-13)

SECTION 6-27. AT LARGE

(a) No unlicensed dog or cat shall be at large, and any person may seize or impound any such unlicensed dog or cat found at large, and the fact that a dog or cat is without a proper license tag attached to its collar, shall be presumptive evidence that it is unlicensed.

(b) No licensed dog or cat shall be at large except upon a leash or accompanied by its owner or a member of his immediate family over twelve (12) years of age.

(Ord. No. 210, § 3, 6-7-60; Ord. No. 357, § 8, 4-1-80)

Cross reference(s)--Streets, sidewalks and other public places, Ch. 19.

SECTION 6-28. INCITING TO FIGHT

Any person who shall by words, signs or symbols or otherwise, set any dogs or cats to fighting or attack any other dogs or cats, or who shall aid, abet or encourage any dog or cat fight, or any owner, keeper or harborer of any dog or cat who shall knowingly permit such dog or cat to fight, without endeavoring to prevent the same, or any person who shall, by words, signs or symbols or otherwise, set on or encourage any dog or cat to attack or chase any human being, not engaged in any malicious act, shall be guilty of a misdemeanor.

(Ord. No. 128, § 112, 2-2-26; Ord. No. 357, § 8, 4-1-80)

SECTION 6-29. RABIES INFECTION

(a) Any person who shall suspect that any animal in the city is infected with rabies or hydrophobia shall report his or her suspicion to the police or health authorities, describing

the animal and giving the name of the owner, if known; and if, upon examination by the health authorities, it appears that the animal may have rabies or hydrophobia, the health authorities shall be authorized to impound such animal for observation and testing, and if the animal proves to be infected with the disease, the animal may be destroyed.

(b) When the health authorities shall have determined that an animal found in the city is infected with rabies or hydrophobia, the mayor may, upon written advice from the health authorities that the public safety and general welfare require it, order by proclamation that all dogs be muzzled when off the premises of the owner, and that all unmuzzled dogs when found off the premises of the owner be immediately seized and impounded, and may further order that, after the proclamation has been published for forty-eight (48) hours, either by posting or printing in a newspaper of general circulation in the city, all dogs found off the premises of the owner unmuzzled shall be seized, impounded and killed; except that the chief of police or any police officer may immediately kill any such unmuzzle dog, if with reasonable effort it cannot first be seized and impounded. All dogs seized and impounded during the first forty-eight (48) hours after the publishing of any such proclamation, shall, if claimed within ten (10) days, be returned to the owner thereof without any impounding charge or cost, if not infected with hydrophobia or rabies, but after the ten (10) days such dogs may be killed.

(c) No person shall knowingly harbor or keep any animal infected with hydrophobia or rabies, or any animal known to have been bitten by an animal known to have been infected with hydrophobia or rabies.

(Ord. No. 210, § 6, 6-7-60; Ord. No. 357, § 9, 4-1-80)

Cross reference(s)--Health and sanitation generally, Ch. 12.

SECTION 6-30. NUMBER OF DOGS

It shall be unlawful for any person to keep, maintain, harbor or possess more than four (4) dogs, six (6) months of age or older. A maximum of six (6) fowl and twelve (12) pigeons may be kept on private land within residentially zoned properties in the city with an approved license in accordance with Section 6-32. Roosters are strictly prohibited.

(Ord. No. 539, § 1, 7-2-96; Ord. No. 844, § 1, 2-6-17; Ord. No. 854, § 1, 7-2-18)

SECTION 6-31. ANIMAL ENCLOSURE GUIDELINES

(a) All persons who keep animals fowl and pigeons in cages, kennels or enclosed structures shall be required to comply with the following guidelines:

(1) Animal enclosures must be provided which allow adequate protection against all weather extremes. Floors of buildings, runs and walls, must be constructed with an impervious material to permit proper cleaning and disinfecting.

(2) Building temperatures shall be maintained at a comfortable level. Adequate ventilation and adequate lighting shall be maintained at all times.

(3) Each animal shall have sufficient space to stand up, lie down and turn around without touching the sides or tops of cages.

(4) Cages are to be of material and construction that permit adequate cleaning and sanitation.

(5) Cages are to be of an impervious, washable material, radiantly heated, and shall have a resting board or some kind of bedding.

(6) Rooms shall provide an adequate exercise area and protection from the weather. Runs shall have an impervious surface.

(7) Animals shall have ample exercise time and human contact.

(8) All animal quarters and rooms are to be kept clean, dry and in a sanitary condition.

(9) Animal food shall be free from contamination, shall be wholesome, palatable and of sufficient quantity and nutritive value to meet the normal daily requirements for the condition, age, and size of the animal.

(10) All animals shall have fresh, potable water available at all times. Water vessels shall be mounted or secured in a manner that prevents tipping and be of a removable type.

(11) No building or structure to house animals shall be constructed on a lot prior to the time of occupancy of the principal structure.

(12) Structures and yards for fowl and pigeons must meet the following additional minimum standards;

i. A separate coop or loft is required to house the fowl and pigeons together with a reasonably satisfactory yard, run or yard fencing so as to keep fowls confined at all times. Garages both attached and detached are acceptable to be used as coops and lofts.

ii. The structure is to be located in the rear or side yard and not to be placed on any drainage or utility easements.

iii. Only one building to house the fowl and pigeons and one enclosed outdoor area shall be allowed per lot.

iv. Any structures to house the fowl and pigeons must meet setback and all other applicable zoning code requirements.

v. Coops and lofts must be maintained in good repair and must be constructed of materials consistent with the requirements for accessory buildings; in particular they must have finished exterior surfaces (painted, stained, sealed, etc.)

vi. A floor is not required for a building housing fowl and pigeons.

vii. The structure as well as any manure storage shall be kept at least twenty (20) feet from the door or window of any dwelling of an occupied structure other than the owner's dwelling.

(b) If an animal control officer has reasonable cause to believe that the standards set forth in this section are not being met, said officer shall be authorized to impound such confined animal or shall be authorized to issue a complaint or citation for a violation of this section.

(Ord. No. 539, § 1, 7-2-96; Ord. No. 844, § 1, 2-6-17; Ord. No. 854, § 1, 7-2-18)

SECTION 6-32. KEEPING OF FOWL ON RESIDENTIAL LOTS

(a) **License Required**. No person shall keep chickens or other fowl and pigeons on any residentially zoned property within the city without first obtaining a license from the city. The keeping of chickens or other fowl and pigeons on a residential property shall be limited to single family lots.

(b) **Types of Fowl and Pigeons Permitted**. Domestic fowl of a Galliformes in the genus of Gallus (chickens) are permitted. Domestic Fowl of the order of Gallinaceous birds (fowl like birds that are not chickens) and the order of Anseriformes (water fowl) are permitted on a limited basis. Ducks, Geese, and other small bodied waterfowl are permitted. Other large bodied Fowl such as but not limited to Turkeys and Guineas are not allowed unless special permission by the City Council is received. Domestic Pigeons commonly known as "fancy pigeons" may be kept. This includes "rollers, "tumblers", and "homers". Feral Pigeons may not be kept.

(c) **Application**. An application for a license to keep fowl shall be made to the city on a form provided by the city. The applicant must provide all the information required on the form and pay a one-time license fee of twenty-five dollars ($25.00) to the city.

(d) **Consent from surrounding property owners**. The applicant shall be required to obtain written consent from 75 percent of property owners within thirty (30) feet of the applicant's

property. The applicant is responsible for obtaining signatures from the surrounding property owners for the application process.

(e) **Leased Property**. Applicants who lease property must submit written permission from the property owner allowing the applicant to keep fowl or pigeons on the premises.

(f) **Granting Issuance of License**. The City Administrator or their designee may grant a license provided the following have been met:

(1) All required information is completed on application.
(2) Appropriate one-time $25 fee is paid.
(3) The application filed demonstrates all requirements of this subsection including the shelter and enclosure requirements.
(4) Received written consent from 75 percent of property owners within 30 feet of applicant's property.
(5) Received written consent from the property owner if fowl or pigeons will be kept by a tenant on leased property.
(6) The applicant has no more than two property zoning or nuisance violations within the preceding 12 month period.

(g) **Revocation of License**. A license may be revoked by the city for a violation of any conditions of this section or any other restrictions, limitations, conditions or prohibitions that may be placed on the property as recorded on the issued permit.

(h) **Penalty for Violation**. Violation of this ordinance will be handled in accordance with Section 6-13.

(i) **Shelter and Enclosure Requirements**. Shelter and Enclosure Requirements are in accordance with Section 6-31.

(j) **Additional Standards for the keeping of Fowl and Pigeons**. Any person keeping fowl on residential properties must comply with the following:

(1) No more than 6 total fowl and 12 total pigeons are permitted. No Roosters or adult males of fowl are permitted.
(2) The owners of the fowl and pigeons shall live in the dwelling on the property.
(3) The raising of fowl and/or pigeons for breeding or commercial purposes is prohibited.
(4) The owner of custodian of any fowl or pigeons shall not allow the fowl to disturb the peace of any other person. Section 6-8 shall apply to any fowl making excessive noises.

(k) **Conditions/maintenance and inspections**. No person who owns, controls, keeps, maintains or harbors fowl or pigeons shall permit the premises where the animals are kept to be or remain in an unhealthy, unsanitary or noxious condition or to permit the premises to be in such a condition that noxious odors to be carried to adjacent public or private

property. Any building to house fowl and pigeons or enclosed outdoor area for the fowl or pigeons authorized under this ordinance may be inspected at any reasonable time by the authorized designated city staff to inspect for compliance with this ordinance and other relevant laws and regulations.

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

(m) **Food Storage and removal**. All stored food for fowl and pigeons must be kept either indoors or in a weather-resistant rodent proof container. Uneaten food shall be removed daily to prevent animals and insects.

(Ord. No. 844, § 1, 2-6-17; Ord. No. 854, § 1, 7-2-18)

CHAPTER 7 – BUILDINGS AND BUILDING REGULATIONS*

***Editor's note--**Ord. No. 526, § 1, adopted April 4, 1995, amended Ch. 7 in its entirety to read as herein set out. Prior to amendment, Art. II, §§ 7-16--7-19, and Art. III, §§ 7-31--7-35, pertained to the building and mechanical codes, respectively, and derived from Ord. No. 298, §§ 1--4, 11--15, adopted Nov. 5, 1974; Ord. No. 415, § 1, adopted Oct. 15, 1985; Ord. No. 451, adopted Nov. 21, 1989; and Ord. No. 468, adopted Oct. 2, 1990.

Cross reference(s)--Civil defense, Ch. 8; fire prevention and protection, Ch. 10; health and sanitation, Ch. 12; streets, sidewalks and other public places, Ch. 19; contractors excise tax, § 19.5-46 et seq.; utilities, Ch. 21; planning and zoning commission, App. A; zoning ordinance, App. B; floodplain management, App. C; subdivisions, App. D.

Article I. In General

Sections 7-1 – 7-15. Reserved

Article II. Building Code

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Section 7-17. Conflicts
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ARTICLE I. IN GENERAL

SECTIONS 7-1 – 7-15. RESERVED

ARTICLE II. BUILDING CODE*

***State law reference(s)--**Authority to regulate building construction, SDCL 9-33-4.

SECTION 7-16. ADOPTION OF BUILDING CODES

(a) *Adoption of 2006 International Building Code.* The International Building Code, 2006 edition, including Appendix C and Appendix I as published by the International Code Council Inc., and amendments and additions thereto as provided in a separate document entitled Building Code for the City of Dell Rapids are hereby adopted by the City of Dell Rapids as provided by South Dakota Codified Laws Chapter 9-33-4.1 for regulating the erection, construction, enlargement, alteration, repair, moving, removal, conversion, occupancy, equipment, use, height, area and maintenance of all buildings or structures and providing for issuance of permits and collection of fees therefore. The minimum building standards in the 2006 editions of the International Building Code and amendments thereto shall be applied to any building permit issued after February 24, 2009. A printed copy of such code and additions and amendments thereto is on file with the Municipal Finance Officer.

(b) *Adoption of 2006 International Residential Code.* The International Residential Code, 2006 edition—including Appendix E, Appendix G, and Appendix H—as published by the International Code Council Inc. and amendments and additions thereto as provided in a separate document entitled Building Code for the City of Dell Rapids are hereby adopted as the residential building code by the City of Dell Rapids as provided by South Dakota Codified Laws Chapter 9-33-4.1 for regulating the design, construction, quality of materials, erection, installation, alteration, movement, repair, equipment, use and occupancy, location, removal, and demolition of detached one- and two-family dwellings and town houses not more than three stories in height with a separate means of egress and their accessory structures, and providing for issuance of permits and the collection of fees therefore. The minimum building standards in the 2006 edition of the International Residential Code and amendments thereto shall be applied to any building permit issued after February 24, 2009. A printed copy of such code and additions and amendments thereto is on file with the Municipal Finance Officer.

(c) *Adoption of 2006 International Existing Building Code.* The International Existing Building Code, 2006 edition, including Appendix A, Referenced Standards, and Resource A, Guidelines on Fire Ratings of Archaic Materials and Assemblies, as published by the International Code Council Inc., and amendments and additions thereto as provided in a separate document entitled Building Code for the City of Dell Rapids are hereby adopted by the City of Dell Rapids as provided by South Dakota Codified Laws Chapter 9-33-4.1 as an alternate for regulating and governing the repair, alteration, change of occupancy, addition, and relocation of existing buildings, including historic buildings, as herein provided and providing for issuance of permits and collection of fees therefore. The alternate minimum building standards in the 2006 edition of the International Existing Building Code and amendments thereto shall be applied to any building permit issued after February 24, 2009. A printed copy of such code and additions and amendments thereto is on file with the Municipal Finance Officer.

(Ord. No. 604, § 1, 9-18-00; Ord. No. 723, § 1, 2-2-09)

Sections 7-31, 7-32, 7-33, 7-34 and 10-16 of the Revised Ordinances of the City of Dell Rapids, South Dakota, are hereby repealed.

(Ord. No. 723, § 2, 2-2-09)

State law reference(s)--Authority to adopt technical codes by reference, SDCL 9-19-7; authority to adopt Uniform Codes, SDCL 9-33-4.1.

SECTION 7-17. CONFLICTS

In the event of any conflict between the provisions of the Uniform Building Code, and the provisions of this chapter, or between the provisions of the Uniform Building Code and any county, state or federal law or regulation, the provisions of this chapter, or other governmental authority shall prevail and be controlling, and the Uniform Building Code, when applied to any situation under the jurisdiction of the city, shall be deemed to be amended, accordingly.

(Ord. No. 526, § 1, 4-4-95)

SECTION 7-18. ZONING; SETBACK, BUILDING COMPLIANCE

The city council shall employ or appoint a person or persons, either employed by the city or as (an) independent contractor(s), the function of which shall be to oversee that construction within the city or within the zoning jurisdiction of the city meets all zoning laws and regulations including setback requirements and all building code laws and regulations. The municipal finance officer, as the zoning administrator may serve as the zoning compliance person, with another person or persons to be employed or appointed as building inspector.

(Ord. No. 526, § 1, 4-4-95)

SECTION 7-19. BUILDING PERMIT APPLICATION

Prior to the commencement of construction that might require the issuance of a building permit under the requirements of this chapter, the person desiring the construction, or his or her primary contractor, shall submit an application to the zoning administrator for such zoning/building permit. The application shall be on a form provided by the zoning administrator, and the applicant shall provide all information required on the form and any other information required by the zoning administrator. In the event of a dispute over responsibility for the application and/or accuracy thereof, the property owner(s) on which the construction is proposed shall be finally responsible for the same.

(Ord. No. 526, § 1, 4-4-95)

SECTION 7-20. BUILDING PERMIT FEES

A fee for each building permit shall be paid to the municipal finance officer at the time of submission of the application, according to the fee schedule from time to time adopted by the city council. Where work for which such permit is required is started prior to obtaining the permit, the fee may be doubled, unless such doubling is, for good cause, waived by the city council; but the payment of such double fee shall not relieve any persons from fully complying with all requirements of law in the execution of the work nor from any other penalties, nor shall any person be deemed entitled to continue with any work without obtaining the necessary permit therefore.

(Ord. No. 526, § 1, 4-4-95)

SECTION 7-21. SETBACK INVESTIGATION

Following submission of the zoning/building permit application, and upon a determination that the construction and use would meet the appropriate zoning classification, the city's building inspector shall arrange with the property owner(s) or contractor to make an onsite inspection of the premises to verify the appropriate setback requirements and compliance therewith. Once the setback has been approved the owner(s) or contractor shall make no deviations from the same without further approval from the city's building inspector. If the construction is of such a nature that a physical inspection of the premises is not necessary (reshingling, interior remodeling, residing, etc. such that the setbacks will not be changed or altered), the city may, if it chooses, waive the on-site inspection.

(Ord. No. 526, § 1, 4-4-95)

SECTION 7-22. PROPERTY BOUNDARIES

For any onsite setback inspection, the property owner(s) or contractor shall attempt to locate the property line(s) and boundary areas necessary for the city building inspector to make his or her appropriate determination. In addition, the building inspector shall use the means and maps of the city reasonably at his or her disposal to make a reasonable effort to locate the same. If the property line/boundary areas are not located following reasonable means and inspection, the city building inspector, or the city council, may require the property owner(s) or contractor, at the owner's or contractor's expense, to hire or retain a registered land surveyor or engineer to do a survey of the property or to otherwise locate the property line(s) or boundary areas. Once the boundaries are found and setback compliance has been obtained, the property owner(s) and contractor may proceed with construction.

(Ord. No. 526, § 1, 4-4-95)

SECTION 7-23. BUILDING PERMIT--WHEN REQUIRED

A building permit shall be required for each construction, remodeling, improvement or the like:

(1) Involving and exterior change of dimensions of an existing structure, such as an addition, deck, attached garage, or the like, regardless of cost of improvement;

(2) Any new home, building or other structure construction including detached garage, storage shed, or the like, regardless of cost of improvement;

(3) The moving in and relocation of any home, building or other structure onto a new foundation or location, regardless of cost of improvement; and

(4) Involving repair, remodeling or maintenance (even though no new improvement is involved) of a cost anticipated to be in excess of one thousand dollars ($1,000.00), including material and labor; and if the labor is anticipated to be done by the owner, family, friends, or otherwise gratis, the labor shall have an assigned cost or value equal to that if the project had been hired done.

(Ord. No. 526, § 1, 4-4-95)

SECTION 7-23.1. SAME--AUTHORITY TO ISSUE

Notwithstanding any provision of the Uniform Building Code or any other provision of this Code of Ordinances, building permits shall be issued by the building inspector for the following zoning districts:

R-1	Single-Family Residential
R-2	Two-Family Residential
R-3	Medium Density Residential
R-4	High Density Residential
R-M	Mobile Home Park

Building permit applications for all other zoning districts shall first be referred to the city planning and zoning commission for its approval or rejection, before review by the building inspector."

(Ord. No. 547, § 1, 4-4-97; Ord. No. 606, § 1, 9-18-00)

SECTION 7-24. CONSTRUCTION RESPONSIBILITY

The responsibility for the accuracy and quality of any construction within the city or within the city's jurisdiction to regulate the same, including the responsibility for full compliance with the Uniform Building Code, shall be that of the property owner(s) and his or her contractor(s), and any dispute involving any such matter shall be a private dispute between the parties involved. The

city's involvement and jurisdiction in building matters shall be limited to zoning compliance, setback regulation and activities of the building inspector under the direction of the city. The building inspector shall be involved in the limited areas of setback regulation, the inspection or examination of footings, basic structural framing inspection (where applicable and deemed necessary), final general inspection before occupation, and any other nontechnical inspection as directed by the city or which the building inspector deems appropriate. The building inspector is not an expert in nor does he or she inspect for electrical work, heating, plumbing, cooling and overall workmanship each project.

(Ord. No. 526, § 1, 4-4-95)

SECTION 7-25. COVENANTS/RESTRICTIONS

In the determination of zoning compliance, the city does not certify as to compliance with any covenants or restrictions or the like that may exist or may have been placed on the affected property by any prior property owner or developer by way of declaration, deed or otherwise. Any such matter is the responsibility of the property owner(s) to know or discover and to be in compliance with.

(Ord. No. 526, § 1, 4-4-95)

SECTION 7-26. DEMOLITION OF BUILDINGS

No person shall demolish or wreck a building or structure unless such person shall first have obtained a permit for said wrecking from the municipal finance officer and has complied with the following:

(1) *Bond.* Any person filing an application for a wrecking permit may be required by the city council to file a bond in the form and amount as specified by the council to ensure the safety of surrounding properties and persons.

(2) *Insurance policy in lieu of bond.* Any person filing an application hereunder may, in lieu of the bond provided above, file a certificate or copy of a liability insurance policy, issued by an insurance company authorized to do business in the state, in form and amount(s) as specified by the council.

(3) *Bond/insurance waiver.* The city council, for good cause may waive the bond and insurance requirement.

(4) *Utilities.* Before a wrecking permit can be issued, the applicant must satisfy the city that all affected utilities have been contacted and that their approval has been obtained. The applicant must assure the city, in writing if required by the city, that he or she will work with and coordinate with all utilities to ensure the same are properly and timely disconnected without damage to the same.

(5) *Fees.* The applicant shall submit a fee of twenty-five dollars ($25.00) at the time of application. The fee may be waived for unsalvageable, worn-out, one-story buildings of less than six hundred (600) square feet floor space, provided that the building is not being wrecked under order of condemnation.

(6) *Date and time.* The applicant shall notify the city of the date and time of demolition, and any change in any such date and time.

(7) *Demolition.* The applicant shall comply with all city, state and federal rules and regulations and ensure proper safety of surrounding properties and persons.

(8) *Demolition project abandoned.* When a demolition or wrecking project has been abandoned or is found unsafe by its neglected or unprotected condition, the city council may order the unsafe conditions corrected. Upon failure of the owner or contractor to comply with the order of the city within seven (7) days thereof, the city may order the building or structure to be demolished to the extent of the work covered by the wrecking permit, the premises cleaned and suitable drainage grades established, the cost of such demolition, cleaning and grading to be assessed to the property as provided by law.

(Ord. No. 526, § 1, 4-4-95)

SECTIONS 7-27 – 7-30. RESERVED

SECTIONS 7-31 – 7-34. RESERVED

Editor's note--Former §§ 7-31, 7-32, 7-33, and 7-34 were repealed by § 2 of Ord. No. 723, adopted February 2, 2009.

(Ord. No. 605, § 1, 9-18-00; Ord. No. 723, § 2, 2-22-09)

CHAPTER 8 – CIVIL DEFENSE*

***Cross reference(s)--**Administration, Ch. 2; buildings and building regulations, Ch. 7.

State law reference(s)--Emergency management generally, SDCL ch. 33-15.

Section 8-1. Adoption of City Disaster and Emergency Plan
Section 8-2. Application of county emergency plan
Section 8-3. Designation of civil defense director

SECTION 8-1. ADOPTION OF CITY DISASTER AND EMERGENCY PLAN

The city council does hereby approve and adopt the provisions of the document known as the City of Dell Rapids Disaster and Emergency Plan.

(Res. No. 11-74, 9-3-74)

SECTION 8-2. APPLICATION OF COUNTY EMERGENCY PLAN

Officials, employees and citizens of the city are hereby instructed in time of disaster to comply with the provisions of the county emergency plan and any such direction and control as may be additionally necessary as determined by the governing body identified in the plan, in order to provide mutual protection and assistance.

(Res. No. 11-74, 9-3-74)

SECTION 8-3. DESIGNATION OF CIVIL DEFENSE DIRECTOR

The county civil defense director is hereby designated as the city civil defense director.

CHAPTER 9 – ELECTIONS*

***Cross reference(s)--**Administration, Ch. 2.

State law reference(s)--Municipal elections, SDCL ch. 9-13; elections generally, SDCL tit. 12.

Section 9-1. Designation of wards
Section 9-2. Voting precincts
Section 9-3. Voting places

SECTION 9-1. DESIGNATION OF WARDS

The City shall be divided into four wards which shall be designated respectively as Wards One, Town, Three, and Four. The wards shall be described by stating the certain street or avenue designations or other landmarks that divide or border the wards. Any reference to street or avenue below shall mean an imaginary line running down the approximate middle of each street or avenue. The wards of the City of Dell Rapids are set forth below and on the map thereof on file in the office of the Finance Officer. Any discrepancies shall be resolved by reference to the map rather than the physical descriptions set forth herein.

The First Ward shall include all of that part of the City north of the main tracks of the Dakota & Iowa Railroad and east of Garfield Avenue. It shall also include all of that part of the City west of Garfield Avenue and east of State Avenue located between Ninth Street and Fourth Street. It shall also include all of that part of the City west of State Avenue and east of Orleans Avenue located between Seventh Street and Fourth Street. It shall also include all of that part of the City west of Orleans Avenue and east of Ladelle Avenue located between Seventh Street and Fifth Street.

The Second Ward shall include all of that part of the City north of Tenth Street located between Garfield Avenue and State Highway 77/474th Avenue. It shall also include all of that part of the City north of Ninth Street located between Garfield Avenue and Iowa Avenue. It shall also include all of that part of the City north of Seventh Street located between State Avenue and Clark Avenue.

The Third Ward shall include all of that part of the City west of State Highway 77/474th Avenue and north of State Highway 115/Fourth Street. It shall also include all of that part of the City east of State Highway 77/474th Avenue and west of Iowa Avenue located between Tenth Street and Seventh Street. It shall also include all of that part of the City east of Iowa Avenue and west of Clark Avenue located between Ninth Street and Seventh Street.

The Fourth Ward shall include all of that part of the City south of the main tracks of the Dakota & Iowa Railroad and south of State Highway 115/Fourth Street. It shall also include all of that part of the City east of State Highway 77/474th Avenue and west of Ladelle Avenue located between Seventh Street and Fourth Street. It shall also include all of that part of the City east of Ladelle Avenue and west of Orleans Avenue located between Fifth Street and Fourth Street.

(Ord. No. 257, § 1, 1-6-70; Ord. No. 368, § 1, 11-18-80; Ord. No. 756, § 1, 12-19-11)

SECTION 9-2. VOTING PRECINCTS

Voting precincts in the city shall be designated and redesignated by the appropriate governmental officials, according to the election laws contained within the South Dakota Codified Laws, as may be from time to time amended.

(Ord. No. 257, § 2, 1-6-70; Ord. No. 368, § 1, 11-18-80)

SECTION 9-3. VOTING PLACES

Voting and polling places within the city shall be designated and redesignated by the appropriate governmental officials according to the election laws contained within the South Dakota Codified Laws, as may be from time to time amended.

(Ord. No. 257, § 3, 1-6-70; Ord. No. 368, § 1, 11-18-80)

CHAPTER 10 – FIRE PREVENTION AND PROTECTION*

***Cross reference(s)--**Buildings and building regulations, Ch. 7; nuisances and offensive conditions, § 12-16 et seq.; false alarms, § 15-6; tax levy for county fire protection, § 19.5-16 et seq.; following fire apparatus, § 20-238; crossing fire hose prohibited, § 20-239.

State law reference(s)--Fire protection and safety regulations, SDCL ch. 9-33.

Article I. In General

Section 10-1. Interfering with department
Sections 10-2 – 10-15. Reserved

ARTICLE I. IN GENERAL

SECTION 10-1. INTERFERING WITH DEPARTMENT

No person shall wilfully hinder or interfere with any city officer or fireman in the performance of his duty at, going to, or returning from any fire, or while attending to his duty as a member of the fire department.

SECTIONS 10-2 – 10-15. RESERVED

SECTION 10-16. RESERVED

Editor's note--Former § 10-16 was repealed by § 2 of Ord. No. 723, adopted February 2, 2009.

(Ord. No. 723, § 2, 2-22-09)

CHAPTER 11 – GARBAGE AND REFUSE*

***Cross reference(s)--**Health and sanitation, Ch. 12; littering in parks, § 15.5-63; utilities, Ch. 21.

State law reference(s)--Municipal garbage disposal systems, SDCL 9-32-11.

Article I. In General

Section 11-1. Litter--Prohibited
Section 11-2. Same--Duty to business owners, occupants
Section 11-3. Same--Duty of customer
Section 11-4. Littering from motor vehicle prohibited; transporting litter to highway or street receptacles prohibited
Section 11-5. Litter defined
Sections 11-6 – 7-15. Reserved

Article II. Restricted Use Solid Waste Disposal Site

Section 11-16. Designation
Section 11-17. Use required
Section 11-18. Rates for use
Section 11-19. Manner of payment
Section 11-20. Certain materials excluded
Section 11-21. Removal restricted
Sections 11-22 - 11-41. Reserved

Article III. Commercial Haulers

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Section 11-42. Vehicles generally
Section 11-43. Loading of vehicles
Section 11-44. Random load inspections
Section 11-45. Frequency of collection
Section 11-46. Recyclable materials
Section 11-47. Prohibited materials; effective dates
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Sections 11-49, 11-50. Reserved

Division 2. License

Section 11-51. Required
Section 11-52. Chapter 13 applicable
Section 11-53. Application
Section 11-54. Approval required

Section 11-55. Fee
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Section 11-57. Expiration
Section 11-58. Display of license
Section 11-59. Revocation
Section 11-60. Insurance requirement
Section 11-61. Rate structure

ARTICLE I. IN GENERAL

SECTION 11-1. LITTER--PROHIBITED

No person may dump, deposit, drop, throw, discard, leave, cause or permit the dumping, depositing, dropping, throwing, discarding or leaving of litter upon any public or private property in this city, or upon or into any river, lake, pond, or other stream or body of water in this city, unless:

(1) The property has been designated by the city or any of its authorized employees or agents for the disposal of litter;

(2) The litter is placed into a receptacle or other container intended by the owner or tenant in lawful possession of that property for the deposit of litter;

(3) The person is the owner or tenant in lawful possession of the property or has first obtained the consent of the owner or tenant in lawful possession, or unless the act is done under the personal direction of the owner or tenant and does not create a public health or safety hazard, a public nuisance, or a fire hazard;

(4) The person is acting under the direction of proper public officials during special cleanup days; or

(5) The person is lawfully acting in or reacting to an emergency situation where health and safety is threatened, and removes and properly disposes of such litter when the emergency situation no longer exists.

(Ord. No. 296, § 1, 10-15-74; Ord. No. 509, § 1, 7-19-94)

State law reference(s)--Refuse in public places and streams, SDCL 9-32-10; litter disposal and control, SDCL Ch. 34A-7.

SECTION 11-2. SAME--DUTY OF BUSINESS OWNERS, OCCUPANTS

(a) *Generally.* The owner or occupant of any store or other place of business situated within the city shall exercise reasonable diligence at all times to keep his premises clean of wastepaper, wrapping paper, paper napkins, cartons, package containers, and other used or waste materials thrown or left on the premises by its customers, and to take reasonable measures to prevent same drifting or blowing to adjoining premises.

(b) *Receptacles.* Receptacles of sufficient size and number shall be placed on the premises accessible to the customers of such business where the above referred to articles of waste may be disposed of.

(c) *Signs.* Each and every business establishment shall place upon its premises in a conspicuous place or places in close proximity to the receptacle or receptacles above referred to, a sign or signs which shall, in essence, convey to its customers a request that they use such receptacles for the disposal of waste material.

SECTION 11-3. SAME--DUTY OF CUSTOMER

It shall be unlawful for any customer going upon the premises of another to in any manner dispose of wastepaper, wrapping paper, paper napkins, cartons, package containers, and other used or waste materials except in receptacles provided for such purposes.

SECTION 11-4. LITTERING FROM MOTOR VEHICLE PROHIBITED; TRANSPORTING LITTER TO HIGHWAY OR STREET RECEPTABLES PROHIBITED

No person shall dump, deposit, drop, throw, discard or otherwise dispose of litter from any motor vehicle upon any public highway, upon any public or private property or upon or into any river, lake, pond, stream or body of water in the city except as permitted by law, nor shall any person transport by any means garbage or refuse from any dwelling, residence, place of business, farm or other site to and deposit such material in, around or on top of trash barrels or other receptacles placed along public highways or streets. A person convicted of violating this section while operating a motor vehicle shall be considered to have been convicted of a moving traffic violation, and a report of such conviction may be forwarded to the appropriate state authorities.

(Ord. No. 509, § 2, 7-19-94)

SECTION 11-5. LITTER DEFINED

The term "litter" when used herein shall have the same meaning as prescribed in and by applicable state statute (as of the date hereof, SDCL 34A-7-1(5)).

(Ord. No. 509, § 3, 7-19-94)

SECTIONS 11-6 – 11-15. RESERVED

ARTICLE II. RESTRICTED USE SOLID WASTE DISPOSAL SITE*

***Editor's note--**Article II has been deleted as being superseded by Ord. No. 487, § 1, adopted Aug. 18, 1992. Formerly, Article II consisted of §§ 11-16--11-21, which pertained to sanitary landfill and derived from Ord. No. 299, § 1, adopted Nov. 5, 1974; Ord. No. 376, § 1, adopted July 7, 1981; and Ord. No. 469, § 1, adopted Oct. 2, 1990.

SECTION 11-16. DESIGNATION

The city council shall from time to time designate an area or areas to be known as a restricted use solid waste disposal site or which may be known as rubble site, or other similar terminology, for the receipt, deposit, and in some cases, storage, of permitted rubble and other material, as defined and specified by applicable state law.

(Ord. No. 487, § 1, 8-18-92)

SECTION 11-17. USE REQUIRED

It shall be unlawful for any person to deposit or cause to be deposited any garbage, rubble, or other waste material in or upon any parks, street, alley, gutter, or in or upon any other private or public property within this city or upon any other property on the route between this city and a rubble site area. The use of the municipal rubble site area(s) shall be limited to residents of the city.

(Ord. No. 487, § 1, 6-10-92)

SECTION 11-18. RATES FOR USE

Each individual, firm or business desiring to make use of any rubble site area shall pay to the city or its authorized agent the appropriate fee according to the rate schedule from time to time adopted by the city council.

(Ord. No. 487, § 1, 8-18-92; Ord. No. 554, § 1, 9-2-97; Ord. No. 736, § 1, 4-5-10)

SECTION 11-19. MANNER OF PAYMENT

Each individual, firm or business (for example--building contractor) who may make extensive use of any rubble site area, may, with the prior approval of the city council or municipal finance officer,

be placed on a credit basis, such that each month's use activity shall be documented and that person shall be billed on a monthly basis, with remittance to be due no later than ten (10) days after sending of the bill. Any such credit arrangement shall be subject to review and approval or denial, without cause, at such times as the city council or finance officer shall deem appropriate.

All other persons shall pay cash on the delivery or unloading of any material at any rubble site area.

(Ord. No. 487, § 1, 8-18-92)

SECTION 11-20. CERTAIN MATERIALS EXCLUDED

At the discretion of the city council, municipal finance officer or rubble site caretaker, certain materials may be excluded from any rubble site. All such prohibited materials specified by applicable state or federal law or regulation shall be excluded from any rubble site.

(Ord. No. 487, § 1, 8-18-92)

SECTION 11-21. REMOVAL RESTRICTED

It shall be unlawful for any person to remove or cause to be removed from any rubble site any article or material after the same has been deposited thereon with intent to abandon the same. The city council, municipal finance officer and rubble site caretaker may make limited exceptions to this section, and the city has the right to contract or otherwise arrange for the periodic removal of certain items from any rubble site.

(Ord. No. 487, § 1, 8-18-92)

SECTIONS 11-22 – 11-41. RESERVED

ARTICLE III. COMMERCIAL HAULERS

DIVISION 1. GENERALLY

SECTION 11-42. VEHICLES GENERALLY

Licensed collectors of garbage shall provide themselves with suitable vehicles which shall be watertight and be permanently covered on top so as to prevent the escape of odors and contents and so as to hide the garbage from the public view. Such vehicles shall be thoroughly washed at such times as may be directed by governmental authorities or as may be necessary to keep vehicles in proper sanitary condition. Such vehicles when conveying garbage shall be so loaded and

unloaded that the contents shall not fall or spill upon the ground. No article or item shall be carried on such vehicle so as to drag upon the street. All vehicles used for the collection of garbage shall be equipped with an all-metal box which shall otherwise comply with the requirements hereof. All-metal boxes shall be equipped with metal doors which shall be in a closed position when the truck is in motion.

SECTION 11-43. LOADING OF VEHICLES

Vehicles used for transporting rubbish and waste materials to the sanitary landfill shall be so loaded that no material shall fall off or be blown off the vehicle while in transmit.

SECTION 11-44. RANDOM LOAD INSPECTIONS

No holder of a commercial garbage hauler license shall violate any rule or policy established by the City of Sioux Falls for the Runge Landfill. All vehicles transporting solid waste to the Runge Landfill shall be subject to random load inspections performed by the Sioux Falls Health Department.

(Ord. No. 509, § 4, 7-19-94)

SECTION 11-45. FREQUENCY OF COLLECTION

Each holder of a commercial garbage hauler license shall collect solid waste from its customers at least once per week. In cases where a customer produces a type or quantity of solid waste which requires more frequent collection to protect public health, sanitation or safety, the city council may direct the license holder to collect solid waste from that particular customer on a more frequent basis.

(Ord. No. 509, § 5, 7-19-94)

SECTION 11-46. RECYCLABLE MATERIALS

Beginning January 1, 1995, every licensed garbage hauler shall provide recycling opportunities as follows: At least once every thirty (30) days each licensed garbage hauler shall establish and maintain a supervised drop-off site within the city for the proper collection of recyclable materials. The date(s), time(s), place(s) and manner of drop-off and collection shall be sufficiently made known to apprise city residents of the availability of recycling opportunities. Recyclables delivered to the drop-off site shall be presorted into the kinds of categories specified by the garbage hauler and bagged, boxed or otherwise packaged as the garbage hauler shall require.

(Ord. No. 509, § 6, 7-19-94)

SECTION 11-47. PROHIBITED MATERIALS; EFFECTIVE DATES

The following materials and items shall be prohibited from being deposited in any landfill, collected by any licensed garbage hauler, or otherwise placed in the "wastestream" by any person, from and after the following dates:

(1)	Yard waste....	January 1, 1995
(2)	Tires, whole or processed....	July 1, 1995
(3)	Lead acid batteries....	July 1, 1995
(4)	Waste motor oil....	July 1, 1995
(5)	White good appliances....	January 1, 1996
(6)	Office and computer paper....	July 1, 1996
(7)	Printed paper products, corrugated paper, and cardboard paper....	January 1, 1997
(8)	Glass, plastic, aluminum and steel containers....	July 1, 1997

In addition, should any of said items be banned from the Sioux Falls Runge Landfill prior to the date(s) specified above, the date of prohibition for the Runge Landfill shall be the applicable date. (Ord. No. 509, § 7, 7-19-94)

SECTION 11-48. DEFINITIONS

When used in this chapter, the term "solid waste" shall mean the same as specified by applicable state statute (as of the date hereof, SDCL 34A-6-1.3(17)).

When used in this chapter, the term "garbage" shall be synonymous with the term "solid waste."

All other terms, provisions and phrases used herein shall have the same meanings as specified in and by applicable state statute (as of the date hereof, SDCL chs. 34A-6 and 34A-7).

(Ord. No. 509, § 8, 7-19-94)

SECTIONS 11-49, 11-50. RESERVED

DIVISION 2. LICENSE*

***Cross reference(s)--**Licenses generally, Ch. 13.

SECTION 11-51. REQUIRED

It shall be unlawful for a commercial garbage hauler to use the streets for the collection, removal or disposal of any garbage without first having obtained a license to perform such services from the city council.

SECTION 11-52. CHAPTER 13 APPLICABLE

The provisions of Chapter 13, insofar as the same may be applicable and not in conflict, shall apply to and govern the issuance of any license under the provisions of this division.

SECTION 11-53. APPLICATION

The application for a commercial garbage hauler license, and renewal thereof, shall be obtained from the municipal finance office, and upon completion, shall be returned to such office. The applicant must also submit:

(1) Proof of registration with the Sioux Falls Health Department that the applicant will be allowed to deposit solid waste collected from Dell Rapids in the Runge Landfill;

(2) Proof of insurance coverage, as described in section 11-60;

(3) Proposed rate structure, as described in section 11-61; and

(4) The license fee in accordance with section 11-55.

(Ord. No. 509, § 9, 7-19-94)

SECTION 11-54. APPROVAL REQUIRED

Before any license shall be issued under the provisions of this division, the same shall first be approved by the city council.

SECTION 11-55. FEE

The license fee for any commercial garbage hauler's license shall be one hundred dollars ($100.00) per year or part of a year.

(Ord. No. 684, § 1, 10-17-05)

SECTION 11-56. TRANSFER

No license issued under the provisions of this division shall be transferrable.

SECTION 11-57. EXPIRATION

Every license issued under the provisions of this division shall expire on the thirty-first day of December following its date of issuance.

SECTION 11-58. DISPLAY OF LICENSE

The license plate or placard issued under this division shall be displayed on each vehicle licensed at all times.

SECTION 11-59. REVOCATION

Any license issued under the provisions of this division may be revoked by the city council for the violation by the licensee of any applicable provision of this Code, state law or city ordinance, rule or regulation.

SECTION 11-60. INSURANCE REQUIREMENT

Every licensed garbage hauler shall have and continually maintain liability insurance coverage for property damage, injury or death, with a minimum coverage of two hundred fifty thousand dollars ($250,000.00) per occurrence, and an annual minimum aggregate limit of five hundred thousand dollars ($500,000.00).

(Ord. No. 509, § 10, 7-19-94)

SECTION 11-61. RATE STRUCTURE

Beginning with applications for licenses for the year 1995, each applicant for a commercial garbage hauler license shall provide a schedule of the rates which the applicant is proposing to charge its customers. The rate structure shall demonstrate that the applicant's rates charged to customers shall be related to the volumes collected from those customers. The rate structure should provide financial incentives to encourage source reduction, reuse and recycling. If applicable, charges shall be categorized as to residential, commercial, and any other special charges. If the application is approved, the rate structure identified in the application shall remain in effect during the term of the license. A license holder may change the rate structure during the term of the license only upon approval by the city council. The city council may approve a requested change only after written request from the license holder.

(Ord. No. 509, § 11, 7-19-94)

CHAPTER 12 – HEALTH AND SANITATION*

***Cross reference(s)--**Administration, Ch. 2; rabies infection, § 6-29; buildings and building regulations, Ch. 7; garbage and refuse, Ch. 11; utilities, Ch. 21; floodplain management, App. C.

State law reference(s)--Sanitation and health measures, SDCL ch. 9-32.

Article I. In General

Sections 12-1, 12-2. Reserved.
Section 12-3. Board of health--Established.
Section 12-4. Same--Powers.
Section 12-5. Same--Rules and regulations.
Sections 12-6 – 12-15. Reserved.

Article II. Nuisances and Offensive Conditions

Section 12-16. Prohibited.
Section 12-17. Illustrative enumeration.
Section 12-18. Notice to abate--Issuance.
Section 12-19. Same--Noncompliance deemed misdemeanor.
Section 12-20. Abatement by city council or board of health.
Section 12-21. Alternate abatement procedure.
Section 12-22. Recovery of expenses.
Section 12-23. Campfires for recreation purposes.

ARTICLE I. IN GENERAL

SECTIONS 12-1, 12-2. RESERVED

Editor's note--Former §§ 12-1 and 12-2 pertained to the health officer and duties, were repealed by § 1 of Ord. No. 452, adopted Dec. 5, 1989, and originated from Ord. No. 128, adopted Feb. 2, 1926.

SECTION 12-3. BOARD OF HEALTH--ESTABLISHED

A board of health is hereby established to consist of the mayor, chief of police, chairman of the utilities committee and the chairman of the public works committee. The municipal finance officer shall be secretary of such board. Meetings may be called from time to time by any member of the board with the mayor presiding at such meetings.

(Ord. No. 452, § 2, 12-5-89)

SECTION 12-4. SAME--POWERS

The board of health subject to the control of the state board of health and within the territorial jurisdiction of the city shall have the power to:

(1) Exercise a general supervision over the health of the city with full power to take all steps and use all measures necessary to promote the cleanliness and healthfulness thereof.

(2) Enforce any rules and regulations made by the state board of health for the prevention of or the spread of contagious disease.

(3) Establish a quarantine and isolate any person afflicted with a contagious, infectious or communicable disease.

(4) Remove or cause to be removed any dead, decaying or putrid body or substance that may endanger the health of persons or domestic animals.

(5) Release any quarantine, to fumigate any premises and to do any and all things that may be necessary to protect the health of the public in and for the city.

(6) Enter any building or place in the city where contagion, infection, filth or other source or cause of preventable diseases exists or is reasonably expected to exist for the purpose of investigation, reporting and enforcement of all rules and regulations to preserve the health particularly for the enforcement of rules made by the state board of health.

(7) Make regulations respecting the removal of nuisance, filth or other sources or causes of sickness or disease as they may deem necessary to protect the health in said city not inconsistent with the rules established by the state board of health.

(8) Consult with, obtain advice from and receive information from all medical physicians practicing in the city concerning all questions of public health, contagious or infectious disease or other health related items which the board deems necessary or advisable.

(9) Declare nuisances within the city and abate such nuisances pursuant to article II of this chapter.

(Ord. No. 452, § 2, 12-5-89)

SECTION 12-5. SAME--RULES AND REGULATIONS

All rules and regulations made by the board of health shall be published in a legal newspaper in Minnehaha County at least twice; and upon completion of the publication, it shall be deemed a

legal notice to all persons, and it shall be binding thereafter. However, the board may, if it deems necessary, make any order, rule or regulation or preserve the public health and upon giving personal notice without any further publication whatever.
(Ord. No. 452, § 2, 12-5-89)

SECTIONS 12-6 – 12-15. RESERVED

ARTICLE II. PERMITTED OPEN BURNING*

***Editor's note—**The title of Article II was changed from "Nuisances and Offensive Conditions" to "Permitted Open Burning" as part of Ordinance No. 806, adopted on September 15, 2014.

Cross reference(s)--Distribution of handbills, § 3-16 et seq.; fire prevention and protection, Ch. 10; abandoned airtight container declared nuisance, § 15-11; weed control, § 22-60 et seq.

State law reference(s)--Authority of city to abate nuisances, SDCL 9-29-13; remedies against nuisances, SDCL ch. 21-10.

SECTION 12-16. PROHIBITED

No person shall create, commit, maintain or permit to be created, committed or maintained any nuisance within the city.

SECTION 12-17. ILLUSTRATIVE ENUMERATION

Whatever is dangerous to human health, whatever renders the ground, the water, the air, or food a hazard or an injury to human health, and the following specific acts, conditions, and things are, each and all of them, hereby declared to constitute nuisances; provided however, that this enumeration shall not be deemed to be exclusive:

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

(2) *Garbage and refuse.* Depositing, maintaining or permitting to be maintained or to accumulate upon any public or private property any household waste water, sewage, garbage, refuse, rubbish, trash, tin cans, old building materials, offal, or excrement; any decaying fruit, vegetables, fish, meat, or bones, any oyster or clam shells, or any foul, putrid, or obnoxious liquid or substance.

(3) *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.

(4) *Undressed hides.* Undressed hides kept longer than twenty-four (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 officer.

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

(6) *Breeding places for flies.* The accumulation of manure, garbage, or anything whatever which are harboring places and breeding areas for flies and rodents.

(7) *Stagnant water.* Any water or liquid in which mosquito larvae exist.

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

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

(10) *Polluting river.* Throwing or leaving any dead animal or decayed animal or vegetable matter or any slops or filth whatever, either solid or fluid, into any pool of water or into the Big Sioux River.

(11) *Privies and cesspools.* Erecting or maintaining any privy or cesspool except such sanitary privies and cesspools the plans of which are approved by the health officer.

(12) *Garbage handling 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 substances.

(13) *Bonfires.* Burning, causing or permitting to be burned without an approved incinerator upon any private or public property any dirt, filth, manure, garbage, sweepings, leaves, ashes, paper, waste or rubbish of any kind.

(14) *Burning of garbage.* Burning upon any private or public property, except upon the public dump any garbage, offal, excrement, fresh or decaying fruits, vegetables, fish, meat or bones, or any foul, putrid or obnoxious liquid or substance.

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

(16) *Dilapidated buildings.* Dilapidated buildings are defined to include uncovered and abandoned basements, excavations and buildings which are no longer usable for any purpose and which may have deteriorated to the point where their continued existence may

be a living and breeding place for rodents and would be dangerous to pedestrians, passersby and all traffic.

(Ord. No. 452, § 3, 12-5-89)

SECTION 12-18. NOTICE TO ABATE--ISSUANCE

Whenever the city council or board of health shall find that a nuisance exists within the city, they shall give written notice to the person creating, permitting or maintaining such nuisance to abate the same within a reasonable time as provided in such notice.

(Ord. No. 452, § 4, 12-5-89)

SECTION 12-19. SAME--NONCOMPLIANCE DEEMED MISDEMEANOR

If any person who is served a written notice to abate a nuisance under the provisions of this article shall fail to do so within the time allowed in such notice, he shall be deemed guilty of a misdemeanor.

SECTION 12-20. ABATEMENT BY CITY COUNCIL OR BOARD OF HEALTH

In the event a person shall fail to abate any nuisance created, permitted or maintained by him following written notice to him so to do, the city council or board of health shall cause such nuisance to be abated.

(Ord. No. 452, § 5, 12-5-89)

SECTION 12-21. ALTERNATE ABATEMENT PROCEDURE

In addition to any method of abatement of nuisances within the city provided by the provisions of this article, any nuisance found within the city may be abated in the manner provided by state law.

SECTION 12-22. RECOVERY OF EXPENSES

The city may recover the expenses incurred by the city council or board of health in abating any nuisance under the provisions of this article from the person creating, permitting or maintaining the same in a civil suit instituted for such purpose, or by taxing the cost thereof by special assessment against the real property on which the nuisance occurred, or by any other means or manner provided or allowed by applicable law.

(Ord. No. 452, § 6, 12-5-89; Ord. No. 492, § 1, 2-2-93)

SECTION 12-23. CAMPFIRES FOR RECREATIONAL PURPOSES

A. Any Open Burning, other than that listed below shall not be permitted unless prior written authorization has been granted by the Fire Chief of the local Fire Department. If Minnehaha County has not instituted a County-wide Burn Ban, the following types of open burning are permissible if in conformity with the following requirements:

(a) Only charcoal and untreated, unpainted, clean, dry wood and manufactured fire logs less than two feet in length may be burned;
(b) The fire must not be on a wood or wood composite surface and must be contained in a pit, ring or manufactured fire pit or chimenea, or outdoor fireplace;
(c) Fire pits and rings must be located at least 5 feet away from structures and combustible materials, must be no more than 18 inches in depth from ground level and must be a minimum of 5 feet from adjoining property lines;
(d) Manufactured freestanding fire pits and chimineas must be located at least 5 feet from structures and combustible materials and a minimum of 5 feet from adjoining property lines;
(e) All recreational fires must be supervised at all times until the fire has been completely extinguished;

B. Officials from the Minnehaha County Sheriff's Department, City's Code Enforcement Officer and local Fire Department are authorized to immediately extinguish any open burning if it is determined through investigation that the fire is not in compliance with the above rules.

C. Complaint or citation. Any person who violates any open burning ordinance of the City of Dell Rapids will be subject to civil or criminal prosecution. In addition to complaints from private citizens or Fire Department officials, any law enforcement officer or the City's Code Enforcement Officer shall be authorized to issue a complaint or citation for a violation of the open burning ordinance of the City of Dell Rapids. Property owners or occupants who violate or allow violation of any provision of this chapter, shall be fined a minimum of one hundred dollars ($100.00) for the first offense and a minimum of one hundred and fifty dollars ($150.00) for the second offense and two hundred dollars ($200.00) for the third and subsequent offenses committed within one (1) year.

(Ord. No. 649, § 1, 6-2-03; Ord. No. 806, § 1, 9-15-14)

CHAPTER 13 – LICENSES*

***Cross reference(s)--**License for outdoor dances, concerts and similar entertainment, § 5-16 et seq.; license for commercial garbage and refuse haulers, § 11-51 et seq.; license for peddlers, § 16-18 et seq.

State law reference(s)--Professions and occupations, SDCL tit. 36; trade regulation, SDCL tit. 37; municipal trade regulation and licenses, SDCL ch. 9-34.

Section 13-1. Required
Section 13-2. Payment of fee
Section 13-3. Application
Section 13-4. Issuance
Section 13-5. Approval of bonds
Section 13-6. Term
Section 13-7. Display required
Section 13-8. Displaying license unlawfully
Section 13-9. Suspension, revocation
Section 13-10. Change of name

SECTION 13-1. REQUIRED

No person shall engage in any activity for which a license is required without first having obtained a license therefor as required by this Code or city ordinance.

SECTION 13-2. PAYMENT OF FEE

Except as may be otherwise provided, an applicant for a license shall first pay the amount of the license fee to the municipal finance officer taking his receipt therefor showing the kind of license for which the fee was paid and the amount paid.

SECTION 13-3. APPLICATION

(a) Except as may be otherwise provided, an applicant for a license shall make and file application in writing with the municipal finance officer on the form prescribed. Such application shall contain such information as required by the licensing authority or as provided by this Code or city ordinance and must show that the applicant is eligible for the license for which application is made. If required the applicant shall verify the application.

(b) Unless otherwise provided an application for license shall state:

(1) Name and address of applicant;

(2) Trade name if any under which license is to be exercised;

(3) If a partnership, the name and address of each partner;

(4) If a corporation the names and addresses of the officers;

(5) Place of business of location where the license is to be exercised;

(6) Description of the activity to be carried on under the license;

(7) Such information as required by this Code, city ordinance or by the council showing the applicant is entitled to the license and that he is a proper person and the place a proper place for the exercise thereof;

(8) Such information as required by this Code or city ordinance as may be necessary for determination of the amount of the license fee.

SECTION 13-4. ISSUANCE

Except as may be otherwise provided, all licenses shall be issued by the municipal finance officer if the issuance of the license is approved by the licensing authority and the applicant has complied with all requirements for issuance of the license. Unless otherwise provided all licenses shall be signed by the municipal finance officer and shall have affixed thereto the official seal of the city.

SECTION 13-5. APPROVAL OF BONDS

Any bond, liability insurance, or deposit required as a condition prerequisite to the issuance of any license under the provisions of this Code or city ordinance shall be subject to the approval of the city council, and in case the council deems the security inadequate, it may require new or additional security.

SECTION 13-6. TERM

Unless otherwise provided, all licenses shall take effect when issued and shall terminate on December thirty-first in the year for which issued. Except as otherwise provided, the license fee or charge shall be paid on the basis of a full year.

SECTION 13-7. DISPLAY REQUIRED

Every person to whom a license is issued by the city shall keep the same posted in a conspicuous place in the licensed place of business or vehicle or if there is no place of business or vehicle, then he shall exhibit the license to any person in authority or to any person who may deal with the licensee when required to do so.

SECTION 13-8. DISPLAYING LICENSE UNLAWFULLY

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

SECTION 13-9. SUSPENSION, REVOCATION

The city council may suspend or revoke any license issued under the provisions of this Code or city ordinance for the violation by the licensee of any applicable provision of this Code, city ordinance, rule or regulation or state law.

SECTION 13-10. CHANGE OF NAME

If a licensee changes the name or form of organization under which he does business, the license may be so changed without payment of an additional fee except as otherwise provided by law.

CHAPTER 14 – MINORS*

***Cross reference(s)--**Purchase and use of alcoholic beverages by person under 21 prohibited, § 4-14; parents and guardians not to authorize or permit violations of bicycle ordinance by child or ward, § 20-321.

State law reference(s)--Minors, SDCL tit. 26.

Article I. In General

Sections 14-1 – 14-15. Reserved.

Article II. Curfew

Section 14-16. Hours for minors.
Section 14-17. Exceptions.
Section 14-18. Responsibility of parent or legal guardian.
Section 14-19. Authority of officers.

ARTICLE I. IN GENERAL

SECTIONS 14-1 - 14-15. RESERVED

ARTICLE II. CURFEW*

***Editor's note--**Section 1 of Ord. No. 462, adopted July 17, 1990, amended former Art. II, §§ 14-16--14-20, to read as herein set out in §§ 14-16--14-19. Formerly, Art. II pertained to the same subject matter and originated from Ord. No. 295, adopted Sept. 17, 1974.

Cross reference(s)--Streets, sidewalks and other public places, Ch. 19.

SECTION 14-16. HOURS FOR MINORS

It shall be unlawful for any person under the age of eighteen (18) to remain or linger on or about any public or private street, alley, driveway, sidewalk, parking lot, park, yard, vacant lot or grounds within the city after 11:00 p.m. in the evening and before 6:00 a.m. the next morning.

(Ord. No. 462, § 1, 7-17-90)

SECTION 14-17. EXCEPTIONS

The provisions of this article shall not apply to any minor accompanied by his or her parent or legal guardian or where the minor is at or returning directly home from an official school, church or benevolent organization-sponsored function.

(Ord. No. 462, § 1, 7-17-90)

SECTION 14-18. RESPONSIBILITY OF PARENT OR LEGAL GUARDIAN

It shall be unlawful for the parent(s) or legal guardian(s) of any minor to knowingly permit the minor to violate the provisions of section 14-16 above unless one of the exceptions of section 14-17 above applies.

(Ord. No. 462, § 1, 7-17-90)

SECTION 14-19. AUTHORITY OF OFFICERS

(a) It shall be the right of any law enforcement officer to arrest and detain any minor violating the curfew and to hold the minor until a parent or legal guardian is notified; after which time, the minor may be released upon the giving of a promise by the minor and his or her parent or legal guardian that such minor together with his or her parent or legal guardian shall appear at a stated time and place before a proper authority to answer the charges.

(b) The above legal procedure shall not be exclusive, but the officer shall have all other powers and authority provided by law to deal with curfew violations.

(Ord. No. 462, § 1, 7-17-90)

CHAPTER 15 – MISCELLANEOUS OFFENSES AND PROVISIONS*

***Cross reference(s)--**Police generally, Ch. 17; traffic and motor vehicles, Ch. 20.

State law reference(s)--Crimes, SDCL tit. 22; criminal procedure, SDCL tit. 23A.

Article I. In General

Section 15-1. Parties to crimes
Section 15-2. Impersonating officers
Section 15-3. Resisting process
Section 15-4. Delay, obstruction or resistance of public officer
Section 15-5. Escapes
Section 15-6. False alarms
Section 15-7. Indecency
Section 15-8. Sale or distribution of obscene matter
Section 15-9. Loitering
Section 15-10. Airtight containers--Restricted
Section 15-11. Same--Keeping, declared nuisance
Section 15-12. Radio interference
Section 15-13. Weights and measures
Section 15-14. Roller skates, coasters, skateboards prohibited on certain streets
Section 15-15. Unlawful occupancy of premises
Section 15-16. Fleeing from law enforcement officer
Sections 15-17 – 15-34. Reserved

Article II. Offenses Against Public Peace

Section 15-35. Disorderly conduct.
Section 15-36. Disturbing the peace.
Section 15-37. Profanity.
Section 15-38. Discharge of fireworks.
Section 15-39. Disorderly assembly.
Sections 15-40, 15-41. Reserved.
Sections 15-42 – 15-48. Reserved.

Article III. Offenses Against Property

Section 15-49. Malicious mischief
Section 15-50. Wells and cisterns covered
Section 15-51. Petit larceny
Section 15-52. Shoplifting
Sections 15-53 – 15-63. Reserved

Article IV. Gambling

Section 15-64. Prohibited generally
Section 15-65. Keeping gambling houses
Section 15-66. Maintaining gambling devices prohibited
Section 15-67. Gambling apparatus nuisance
Sections 15-68 – 15-78. Reserved

Article V. Prostitution

Section 15-79. Prohibited generally
Section 15-80. Enticing
Section 15-81. Leasing room or house for prostitution
Section 15-82. Keeping house of prostitution
Section 15-83. Frequenting house of prostitution
Sections 15-84 – 15-94. Reserved

Article VI. Weapons

Section 15-95. Carrying concealed weapons
Section 15-96. Drawing deadly weapons
Section 15-97. Discharge

ARTICLE I. IN GENERAL

SECTION 15-1. PARTIES TO CRIMES

All persons concerned in the commission of any offense against the city, whether they directly commit the act constituting the offense or aid and abet in its commission, though not present, shall be deemed guilty as a principal in such unlawful act.

State law reference(s)--Parties to crimes, SDCL ch. 22-3.

SECTION 15-2. IMPERSONATING OFFICERS

Every person who falsely impersonates any public officer or any other person having special authority by law to perform any act affecting the rights or interests of another or assumes, without authority, any uniform or badge by which such officer or person is usually distinguished, and in such assumed character does any act whereby another person is injured, defrauded, vexed or annoyed, shall be guilty of a misdemeanor.

Cross reference(s)--Police generally, Ch. 17.

State law reference(s)--Impersonating a judicial official, SDCL 22-11-34, 22-11-35.

SECTION 15-3. RESISTING PROCESS

Every person who resists or enters into a combination with any other person to resist the execution of any legal process, under circumstances not amounting to a riot shall be deemed guilty of a misdemeanor.

Cross reference(s)--Police generally, Ch. 17.

State law reference(s)--Resisting arrest, SDCL 22-11-4.

SECTION 15-4. DELAY, OBSTRUCTION OR RESISTANCE OF PUBLIC OFFICER

It shall be unlawful for any person to willfully delay, obstruct or resist any public officer in the discharge or attempt to discharge any duty of his office.

(Ord. No. 570, § 1, 9-21-98)

Cross reference(s)--Police generally, Ch. 17.

SECTION 15-5. ESCAPES

It shall be a misdemeanor for any person to escape from lawful confinement, or custody or to assist any person so confined or in custody to escape the same.

(Ord. No. 128, § 104, 2-2-26)

Cross reference(s)--Police generally, Ch. 17.

State law reference(s)--Escapes and rescues, SDCL ch. 22-11A.

SECTION 15-6. FALSE ALARMS

It shall be unlawful for any person to intentionally or willfully make or give any alarm or call for aid or help to the police or to any other emergency aid or rescue service, knowing the same to be false or unnecessary.

(Ord. No. 128, § 115, 2-2-26)

Cross reference(s)--Fire prevention and protection, Ch. 10; police, Ch. 17.

SECTION 15-7. INDECENCY

No person shall expose her breasts, his or her genitals, anus or pubic area under circumstances in which such person knows or reasonably should know that the conduct is likely to cause annoyance or alarm, nor shall any person urinate or defecate in any public place other than at facilities provided for that purpose.

(Ord. No. 128, §§ 107, 108, 2-2-26; Ord. No. 570, § 2, 9-21-98)

State law reference(s)--Obscenity and public indecency, SDCL ch. 22-24.

SECTION 15-8. SALE OR DISTRIBUTION OF OBSCENE MATTER

Every person who knowingly sends or causes to be sent, or brings or causes to be brought, by any means, into this city for sale, rental or distribution, or in this city prepares, writes, composes stereotypes, prints, publishes, sells, offers to sell, keeps for sale, rents, exhibits, makes, distributes, offers to distribute, or has in his possession with intent to distribute, or to exhibit or to offer to exhibit, any obscene matter, is guilty of a misdemeanor.

State law reference(s)--Sale or distribution of obscene matter, SDCL 22-24-11 et seq.

SECTION 15-9. LOITERING

(a) It shall be unlawful for persons to gather in crowds or groups or for any person to stand upon any public street or sidewalk in the city in such a manner as to obstruct free passage thereon, or to annoy other persons passing along the same, and the chief of police or any other policeman is hereby authorized to disperse any crowd or group, or to cause the removal of any person violating the provisions of this section.

(b) It shall be unlawful for any person who shall obstruct the entrance to any building by sitting or standing in or about the entrance and there remain spending his time, and refuse to move or vacate such place when requested to do so by the owner or occupant of such building or by any police officer of this city.

(Ord. No. 128, § 24, 2-2-26)

Cross reference(s)--Streets, sidewalks and other public places, Ch. 19.

SECTION 15-10. AIRTIGHT CONTAINERS--RESTRICTED

It shall be unlawful for any person to leave or permit to remain outside of any dwelling, building or other structure or within any unoccupied or abandoned building, dwelling or other structure under his control in a place accessible to children any abandoned or discarded icebox, refrigerator or other container which has an airtight door or lid, snap lock or other locking device which may not be released from the inside, without first removing said door or lid, snap lock or other locking device from said icebox, refrigerator or container.

SECTION 15-11. SAME--KEEPING, DECLARED NUISANCE

The keeping of any discarded icebox, refrigerator or other airtight container is hereby declared to constitute a public nuisance and the same shall be abated as provided by state law and the abatement of such nuisance shall not, in any manner, affect any penalty which may be imposed for the violation of this Code.

Cross reference(s)--Nuisances and offensive conditions, Ch. 12, Art. II.

State law reference(s)--Remedies against nuisances, SDCL ch. 21-10.

SECTION 15-12. RADIO INTERFERENCE

(a) Any person who shall install, maintain or operate any electrical or other device, appliance, equipment, machine or installation of any kind which unnecessarily or avoidably causes interference with radio reception within the city shall be deemed guilty of maintaining a nuisance.

(b) It shall be the duty of the city to inspect any electrical or other device, appliance, equipment, machine or installation of any kind which may be causing interference with radio reception within the city; and whenever upon such inspection it shall find that any electrical or other device, appliance, equipment, machine or installation of any kind is unnecessarily or avoidably causing interference with radio reception within the city, it shall notify the owner or operator thereof to abate such nuisance within such period as he may deem proper, but not longer than fifteen (15) days. If such inspector shall have given such notice and if the owner or operator maintaining said nuisance shall have failed to abate it within the time given him, it shall be the duty of said inspector, and he shall have the power, to cause electrical service to the premises whereon such nuisance is being maintained to be disconnected and discontinued until such nuisance has been abated.

(Ord. No. 162, §§ 2, 3, 8-18-42)

SECTION 15-13. WEIGHTS AND MEASURES

It shall be unlawful for any person to offer or expose for sale, sell, use in buying or selling of any commodity or thing, or for hire or reward, or retain in his possession a false weight or measure or measuring or weighing device, or any weight or measure or weighing or measuring device which has not been sealed as provided by state statutes.

It shall be unlawful for any person to sell or offer or expose for sale less than the quantity or measurement he represents.

The health officer and the sanitary officer and their deputies and assistants and any other person specially appointed for such purpose by the council are authorized and empowered to inspect and test all weights and measures and weighing and measuring devices kept, offered, or exposed for sale, sold, or used by any person in proving or ascertaining the size, quantity, extent, area, or measurement of quantities, things, produce, or articles of distribution or consumption purchased or offered or submitted by such person for sale, hire, or reward.

State law reference(s)--Standard weights and measures, SDCL ch. 37-20; enforcement of weights and measures standards, SDCL ch. 37-21.

SECTION 15-14. ROLLER SKATES, COASTERS, SKATEBOARDS PROHIBITED ON CERTAIN STREETS

No person on roller skates or riding in, on or by means of any coaster, skateboard or similar device shall go upon any sidewalk or street on Fourth Street between Clark Avenue and State Avenue.

(Ord. No. 441, 9-20-88)

Cross reference(s)--Traffic and motor vehicles, Ch. 20; bicycles, § 20-307 et seq.

SECTION 15-15. UNLAWFUL OCCUPANCY OF PREMISES

(a) It shall be unlawful for any person who knows that he or she is not privileged to do so to enter or surreptitiously remain in any building or structure within the city or belonging to the city. It shall also be unlawful for any person who knows that he or she is not privileged to do so to enter or remain in any place where notice against trespass is given by:

(1) Actual communication to the act;

(2) Posting in a manner reasonably likely to come to the attention of intrudents; or

(3) Fencing or other enclosure which a reasonable person would recognize as being designed to exclude intruders.

(b) Without limiting the full scope and application of this section, this section shall also apply to and include the city-owned and-operated swimming pool when not open to the general public and to the city impound lot and to any other city-owned property, building, structure or place.

(Ord. No. 457, § 1, 5-15-90)

SECTION 15-16. FLEEING FROM LAW ENFORCEMENT OFFICER

No person shall willfully fail or refuse to stop, or otherwise flee when given a visual or audible signal to stop by a uniformed law enforcement officer. The signal given by the law enforcement officer may be by hand, voice, emergency light or siren.

(Ord. No. 570, § 4, 9-21-98)

Cross reference(s)--Police generally, Ch. 17.

SECTIONS 15-17 – 15-34. RESERVED

ARTICLE II. OFFENSES AGAINST PUBLIC PEACE*

***State law reference(s)--**Prohibition of disorders and disturbances, SDCL 9-29-3; breech of the peace and disorderly conduct, SDCL ch. 22-13.

SECTION 15-35. DISORDERLY CONDUCT

A person commits disorderly conduct when he knowingly:

(1) Creates a disturbance of the public order by an act of violence or by an act likely to produce violence;

(2) Engages in, promotes, instigates, encourages, aids or abets fighting or any similar violent, threatening or tumultuous behavior;

(3) Makes or causes any unreasonably loud noise;

(4) Addresses profane, obscene or abusive language or threats of violence to any person present so as to create a clear and present danger of violence;

(5) By the use of profane, obscene or abusive language or threats of violence, refuses or fails to cease and desist from disturbing a lawful assembly or meeting after a law enforcement officer has requested that said disturbing conduct or activity be stopped;

(6) Fails to obey a lawful order of dispersal by a person known by him to be a peace officer under circumstances where three or more persons are committing acts of disorderly conduct in the immediate vicinity which acts are likely to cause substantial harm or serious inconvenience, annoyance or alarm;

(7) Loiters, crowds or congregates on the public streets or sidewalks so as to unreasonably obstruct or interfere with pedestrian or vehicular traffic or use thereof or so as to create an unsafe condition for vehicular or pedestrian traffic or use of such street or sidewalk and who fails or refuses to disperse and move on when ordered to do so by a law enforcement officer;

(8) Damages, befouls or disturbs public property or private property of another so as to create an unsafe, unhealthy or unsanitary condition; or

(9) Carries in a threatening or menacing manner, without authority of law, any pistol, revolver, dagger, razor, dangerous knife, stiletto, brass knuckles, slingshot, an object containing noxious or deleterious liquid, gas or substance, or other dangerous weapon.

(Ord. No. 570, § 3, 9-21-98)

SECTION 15-36. DISTURBING THE PEACE

No person shall disturb the peace of the city or of any person by violent, tumultuous or offensive conduct, or by loud or unusual noises or by profane, obscene, indecent, violent or threatening language, or actions or by assaulting, striking or attempting to assault or strike another person, or inviting or defying another person to fight or quarrel, or by engaging in a fight with another.

(Ord. No. 128, § 102, 2-2-26)

State law reference(s)--Assaults and personal injuries, SDCL ch. 22-18.

SECTION 15-37. REPEALED.

(Ord. No. 128, §§ 103, 111, 2-2-26; Ord. No. 958, § 1, 4-20-26)

SECTION 15-38. DISCHARGE OF FIREWORKS

It shall be unlawful for any person to shoot or discharge any fireworks, as that term is defined and used in SDCL ch. 34-37, within the city limits except on July 4, December 31 and January 1 of

each year. On July 4 of each year, only permissible fireworks as defined by SDCL 34-37-5 shall be permitted to be discharged and then only between the hours of 8:00 a.m. and 11:00 p.m. on each said July 4. On December 31 and January 1 of each year, only permissible fireworks as defined by SDCL 34-37-5 shall be permitted to be discharged and then only from 5:00 p.m. on December 31 until 12:30 a.m. on January 1 of the following year. Violation of this section shall result in a minimum fine of twenty-five dollars ($25.00) plus costs, and each subsequent violation in the same year shall result in a minimum increase in the fine of twenty-five dollars ($25.00) per subsequent violation (i.e., twenty-five dollars ($25.00) for first offense, fifty dollars ($50.00) for second offense, seventy-five dollars ($75.00) for third offense, etc., plus costs).

Editor's note-- Ord. No. 779, adopted August 1, 2005, states Section 5-38 in the heading, but Section 15-38 in the body of the amendment. It has been included in Section 15-38 at the City's discretion.

(Ord. No. 385, § 1, 8-3-82; Ord. No. 668, § 1, 6-7-04; Ord. No. 779, § 1, 11-4-13)

SECTION 15-39. DISORDERLY ASSEMBLY

(a) It shall be unlawful for any person to be in a disorderly assembly of people, "disorderly assembly" being defined as an assembly of two (2) or more persons, some or all of whom are engaged in conduct or activities which threatens public peace or safety, causes serious public inconvenience, annoyance or alarm to any other person, or creates a risk thereof, by fighting or violent or threatening behavior, making unreasonable noise, loud or profane language, disturbing any lawful assembly or meeting of persons without lawful authority obstructing vehicular or pedestrian traffic, or littering or breakage or destruction of property.

(b) It shall also be unlawful for any person to intentionally disobey a lawful order to move, disperse, vacate or leave the premises of a disorderly assembly or to cease and refrain from any of the activities specified above in this section.

(Ord. No. 412, § 1, 8-20-85)

SECTIONS 15-40, 15-41. RESERVED

Editor's note--Former §§ 15-40 and 15-41 pertained to ultimate fight contests, were repealed by § 1 of Ord. No. 743, adopted March 21, 2011, and originated from Ord. No. 678, adopted August 1, 2005.

(Ord. No. 678, §§ 1 & 2, 8-1-05; Ord. No. 743, § 1, 3-21-11)

SECTIONS 15-42 – 15-48. RESERVED

ARTICLE III. OFFENSES AGAINST PROPERTY

SECTION 15-49. MALICIOUS MISCHIEF

It shall be unlawful for any person to injure, damage, deface, break, tamper with or otherwise harm any property, public or private, real or personal, not his own.

(Ord. No. 199, § 1, 8-2-55)

SECTION 15-50. WELLS AND CISTERNS COVERED

No person owning or in control of any property shall allow upon any such property any well, cistern, vault or other pit except the same be covered by a good, safe and substantial covering made of iron or lumber, and securely fastened in such manner that the same cannot be removed by children; provided that any person may have upon his premises a well, cistern, vault or other opening if the same is completely enclosed by a high board fence or other substantial enclosure at least five (5) feet high.

SECTION 15-51. PETIT LARCENY

Petit larceny is the taking of personal property of a value not exceeding fifty dollars ($50.00) accomplished by fraud or stealth and with intent to deprive another thereof. It shall be a misdemeanor for any person to commit petit larceny within the city.

State law reference(s)--Grand theft and petty theft, SDCL 22-30A-17.

SECTION 15-52. SHOPLIFTING

Shoplifting is the willful taking into his possession by any person of any goods, wares or merchandise offered for sale by any store or other mercantile establishment with the intention of converting the same to his use without paying the purchase price thereof. It shall be unlawful for any person within the city to commit the offense of shoplifting.

State law reference(s)--Theft, SDCL ch. 22-30A.

SECTIONS 15-53 – 15-63. RESERVED

ARTICLE IV. GAMBLING*

***State law reference(s)--**Gambling and fraudulent practices, SDCL 9-29-5; gambling and lotteries generally, SDCL ch. 22-25.

SECTION 15-64. PROHIBITED GENERALLY

No person shall participate in, sponsor or act as a "lookout" for any gambling game or games of chance, where money or property or things representing money or property or anything of value is staked or wagered, or play any slot machine.

(Ord. No. 128, § 105, 2-2-26)

SECTION 15-65. KEEPING GAMBLING HOUSES

No person shall keep, use or allow to be used any building or part of any building for gambling. An owner, agent or superintendent of any such place knowingly allowing the same to be used or occupied for gambling shall be guilty of a violation of this section.

(Ord. No. 128, § 106, 2-2-26)

SECTION 15-66. MAINTAINING GAMBLING DEVICES PROHIBITED

No person shall maintain or keep any slot machine, device or apparatus used or intended to be used in playing any gambling game or games of chance upon which money or property, or things representing money or property are wagered.

SECTION 15-67. GAMBLING APPARATUS NUISANCE

Every article, apparatus, slot machine or device used, operated or kept in violation of any of the provisions of this article is a public nuisance and may be seized by the officers at the time of the arrest of a person for violation of any provision of this article having the same in his possession. Upon conviction of such person for such violation the gambling apparatus or article may be destroyed under order of the court.

SECTIONS 15-68 – 15-78. RESERVED

ARTICLE V. PROSTITUTION*

***State law reference(s)--**Prostitution, SDCL ch. 22-23; prostitution defined, misdemeanor, SDCL 22-23-1.

SECTION 15-79. PROHIBITED GENERALLY

No person shall use or occupy any room, house or place for the purpose of prostitution, nor engage in prostitution, within the city or within one mile of the outer boundary thereof.

SECTION 15-80. ENTICING

No person shall within the city or within one mile of the outer boundary thereof, solicit, entice or urge any person to enter a house of prostitution nor solicit any person to occupy any room, house, building or other place for the purpose of prostitution.

(Ord. No. 128, § 109, 2-2-26)

SECTION 15-81. LEASING ROOM OR HOUSE FOR PROSTITUTION

No person shall knowingly let or lease to another any room, house, or building for use as a place of prostitution within the city or within one mile of the outer boundary thereof. A person after having been informed that such room, house, or building so let or leased by him is being used for such purpose by the lessee or any other person, shall immediately take all legal measures to recover possession thereof.

SECTION 15-82. KEEPING HOUSE OF PROSTITUTION

No person shall keep a house or place of prostitution within the city or within one mile of the outer boundary thereof.

(Ord. No. 128, § 110, 2-2-26)

SECTION 15-83. FREQUENTING HOUSE OF PROSTITUTION

No person shall frequent any house or place of prostitution, nor be an inmate or visitor of such house or place within the city or within one mile of the outer boundary thereof.

SECTIONS 15-84 – 15-94. RESERVED

ARTICLE VI. WEAPONS*

***Cross reference(s)--**Firearms, weapons in city parks, § 15.5-66.

SECTION 15-95. REPEALED.

(Ord. No. 128, § 101, 2-2-26; Ord. No. 785, § 1, 12-16-13; Ord. No. 959, § 1, 5-4-26)

State law reference(s)--Permit to carry concealed pistol, SDCL 23-7-7.

SECTION 15-96. DRAWING DEADLY WEAPONS

No person, except an officer of the law in the execution of his duty, or a person in self-defense, shall draw a pistol, gun, revolver, knife or any other deadly or dangerous weapon so that the same may be used against or upon another person.

(Ord. No. 128, § 100, 2-2-26)

SECTION 15-97. DISCHARGE

It shall be unlawful for any person to shoot off or discharge any firearms, shotguns, rifles, revolvers, pistols, air guns or any other guns, sling shots, or bows and arrows within the city.

(Ord. No. 164, § 1, 10-20-42)

State law reference(s)--Reckless discharge of firearm, SDCL 22-14-7.

CHAPTER 15.5 – PARKS AND RECREATION*

***State law reference(s)--**Recreation systems, SDCL ch. 42-2.

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ARTICLE I. IN GENERAL

SEC. 15.5-1. POOL ADVISORY BOARD.

There is hereby created and established a Pool Advisory Board for the City of Dell Rapids.

(Ord. No. 961, § 1, 9-21-2026)

SEC. 15.5-2. FUNDING FOR POOL ADVISORY BOARD.

(1) If deemed necessary, the Pool Advisory Board may request a budget allocation from the City Council.

(2) All budget expenditures shall be approved by the City Council.

(Ord. No. 961, § 1, 9-21-2026)

SEC. 15.5-3. DUTIES, RESPONSIBILITIES, AND AUTHORITY OF THE POOL ADVISORY BOARD.

The Pool Advisory Board is an advisory body established for the sole purposes of assisting in the planning, coordination and facilitation of funding for proposed improvements to the Dell Rapids Swimming Pool and to provide recommendations to the City Council. The Pool Advisory Board shall not be responsible for hiring swimming pool staff or for the management of swimming pool staff or operations.

(Ord. No. 961, § 1, 9-21-2026)

SEC. 15.5-4. ORGANIZATION OF THE POOL ADVISORY BOARD.

(1) *Membership.* The Pool Advisory Board shall consist of up to six voting members: one person shall be a City Council member liaison, and five persons shall be registered voters of the city. The Board shall also include non-voting advisory members who are employed by the city. The initial terms shall be from one (1) to three (3) years, inclusive, with all subsequent appointments being for three (3) years. Appointments to fill vacancies shall be for the unexpired term of the member whose position became vacant.

(2) *Terms of the public members.* Board members are to be appointed by the Mayor and confirmed by the City Council at the first regular meeting in May each year.

(3) *Terms of the Council member.* The Council member shall be appointed by the Mayor and serve on an annual basis.

(4) *Elected officers.* The Pool Advisory Board shall, each May, elect from its members a Chairperson and Vice-Chairperson.

(5) *Secretary.* A non-voting city staff member shall be the secretary. It shall be the duty of the Secretary to send all notices for the meeting of said Board; keep and preserve the minutes; have custody and keep all documents and papers filed with said Board; provide copies of all documents to the Finance Officer; and perform such other duties as may be prescribed by said Board, with approval of the City Council.

(6) *Reporting to the City Council.* The Council member serving on the Board shall advise and consult with the Mayor, City Council and city officials as to the work and recommendations of said Board.

(7) *Meeting.* The Board shall meet once each month (if there is business to conduct) and may also meet on the call of the Chairperson or Mayor. Notice of all meetings shall be posted 24 hours prior to the meeting.

(8) *Quorum.* Four voting members shall constitute a quorum.

(Ord. No. 961, § 1, 9-21-2026)

SECTIONS 15.5-5 – 15.5-9. RESERVED

Editor's note--Ord. No. 735, § 1, adopted January 4, 2010, repealed former §§ 15.5-1 through 15.5-9.

(Ord. No. 601, § 1, 7-3-00; Ord. No. 735, § 1, 1-4-10)

SECTION 15.5-10. BOARD AUTHORITY OVER TREES, WEEDS AND VEGETATION

(a) The Dell Rapids City Council shall have authority over all trees, weeds and vegetation of any kind within the city limits of the city, within the regulatory authority of the city beyond the city limits, if any, and within all park and recreation areas of the city either within or without the city limits of the city.

(b) To this end, the Dell Rapids Tree Board, as defined and described in Chapter 22 of the Revised Ordinances of the City of Dell Rapids, shall be and constitute a standing committee of the City Council, and shall have supervision of all such trees, weeds and vegetation.

(c) All of the terms and provisions of Chapter 22 of the Revised Ordinances of the city shall have full application in the regulation of trees, weeds and other vegetation.

(Ord. No. 515, § 1, 11-1-94; Ord. No. 735, § 2, 1-4-10)

SECTION 15.5-11. PARK STRUCTURES

No structure may be erected or maintained within any park except structures or buildings erected by the board for park purposes, and such statues, monuments, works of art, or structures intended for ornamentation only as may be erected by authority of the board. However, the governing body or the board may authorize the building and operation of tourism, science or information centers within any park. Such centers may include the administrative offices of any nonprofit association or corporation responsible for the operation of the center.

(Ord. No. 515, § 1, 11-1-94)

State law reference(s)--Structures within parks, SDCL 9-38-35.

SECTION 15.5-12. BOARD OF UTILITY REGULATION

No telegraph, telephone, or electric light wires, or other wires or posts or supports thereof shall be erected or placed in, upon, through, or over any park without the consent of the board, and the board shall have power to designate the place or places for and manner of erecting, placing, and maintaining the same in or upon any park and may cause the place and manner of maintaining the

same to be altered at such times and in such manner as it shall deem best for the interests of the city and may require such wires in any park to be put and kept underground.

(Ord. No. 515, § 1, 11-1-94)

State law reference(s)--Board consent for utility wires or posts, SDCL 9-38-57.

SECTION 15.5-13. BOARD REGULATION OF STREETS

(a) No roads or streets shall be laid out or constructed through any park without consent of the board.

(b) Upon recommendation of the board any road, street, or alley, or parts thereof, excepting railroads, which may pass through or into or divide any land used for parks may be vacated by the governing body and made a part of such park.

(c) The board may have any road, parkway, boulevard, or street or part thereof, under its control and management, graded, regraded, paved, repaved, curbed, recurbed, guttered, reguttered, or otherwise improved, repaired, and maintained, including the construction, repair, and maintenance of bridges, retaining walls, viaducts, and sidewalks, and the planting of trees and shrubbery, in a manner and at such times and with such material as the board may determine and may pay for the work or improvements or any part thereof out of the funds not otherwise appropriated under the control or jurisdiction of the board.

(d) The contract for doing the work of construction and furnishing material for any such improvement for which special assessments are not to be levied shall be let by the board to the lowest and best bidder in the same manner and subject to the same provisions as similar work not under the control of the board is let by the governing body.

(e) All such work shall be done under the supervision and control of the board.

(Ord. No. 515, § 1, 11-1-94)

State law reference(s)--Similar provisions, SDCL 9-38-36, 9-38-37, 9-38-38.

SECTIONS 15.5-14 – 15.5-15. RESERVED

Editor's note--Ord. No. 735, § 1, adopted January 4, 2010, repealed former §§ 15.5-14 and 15.5-15.

(Ord. No. 735, § 1, 1-4-10)

ARTICLE II. PARK REGULATIONS*

***Editor's note--**Ord. No. 335, adopted Oct. 18, 1977, did not expressly amend this Code; inclusion herein was by discretion of the city. The editor has, at his discretion, designated provisions of said ordinances as Art. II, Div. 1, §§ 15.5-16--15.5-20; Div. 2, §§ 15.5-31--15.5-34; Div. 3, §§ 15.5-45--15.5-49; and Div. 4, §§ 15.5-60--15.5-74. For a detailed disposition, see the Code Comparative Table.

Cross reference(s)--General penalty for Code violations, § 1-4; administration, Ch. 2; amusements, Ch. 5; streets and sidewalks and other public places, Ch. 19.

DIVISION 1. GENERALLY

SECTION 15.5-16. DEFINITIONS

As used in connection with parks and recreation for the City of Dell Rapids, South Dakota, the following terms shall apply:
Board means the City Council for the City of Dell Rapids, South Dakota, as defined under South Dakota Compiled Laws, Chapter 9-38.

Park means the area within or without the City of Dell Rapids, South Dakota, which may be, from time to time, designated by the city council to be a part of the system of parks and recreation for the benefit of the city's residents.

Vehicle means any motorized or unmotorized wheeled conveyance and trailers in tow, of any size, kind or description, excluding bicycles.

(Ord. No. 335, § 1, 10-18-77; Ord. No. 516, § 1, 11-1-94; Ord. No. 735, § 3, 1-4-10)

SECTION 15.5-17. AUTHORITY OF BOARD TO PROHIBIT CERTAIN CONDUCT; NOTICE

The parks of the City of Dell Rapids exist, and shall be operated and maintained, for the enjoyment, benefit and recreation of those persons using the parks. No person shall take part in any activity, conduct or game which shall interfere with another person's use of the park. The board shall have the authority to prohibit any conduct in those areas of the parks when and where the board deems such conduct dangerous or unduly interfering with another's use of the parks; such as, but not limited to, picnicking areas.

(Ord. No. 335, § 28, 10-18-77; Ord. No. 516, § 2, 11-1-94; Ord. No. 735, § 4, 1-4-10)

SECTION 15.5-18. EMPLOYEE EXEMPTION FROM CERTAIN RULES

The sections of this article governing activities and the general rules are not applicable to employees of the board or city, while within a park on required or official duties and in the course of such employment.

(Ord. No. 335, § 3, 10-18-77)

SECTION 15.5-19. FEES; REQUIREMENTS FOR USE OF PARK FACILITIES

The board is hereby authorized to set such fees as are necessary for the use of facilities operated by the board. Such fees shall be posted at the entrance to the recreational facility and shall be collected at that place.

Individuals desiring to use such facilities are required to enter and exit at the designated place and use only designated areas.

Opening and closing time for recreational facilities shall be set by the board and posted at the entrance to the facilities.
(Ord. No. 335, § 15, 10-18-77)

SECTION 15.5-20. HOURS PARKS OPEN TO PUBLIC

Parks shall be open to the public every day from 5:00 a.m. to 11:00 p.m. No one is permitted to be in the parks during any hours unless one has a valid permit. Any part of a park may be closed to the public by the city board, if found to be reasonably necessary. It shall be unlawful for anyone to go into any area of any park after closing hours and before opening hours the next day, or when any area has been declared to be closed by the board.

(Ord. No. 335, § 22, 10-18-77; Ord. No. 516, § 3, 11-1-94)

SECTIONS 15.5-21 – 15.5-30. RESERVED

DIVISION 2. PERMITS

SECTION 15.5-31. PERMISSION--FOR AFTER HOURS USE OF PARKS

Permission to be in the park after hours or for reservation of special area usage or as allowed in this chapter shall be obtained from the board before the time the activity is to take place. Requests for permission may be made in writing if required by the board, which request may contain such information as the board may require.

(Ord. No. 335, § 16, 10-18-77; Ord. No. 516, § 4, 11-1-94)

SECTION 15.5-32. SAME--FOR CERTAIN ACTIVITIES

Bands, processions, parades, military displays, entertainment, exhibitions and public meetings shall be allowed in any park, after a written permit is obtained from the board authorizing and describing the activity, and the date(s) and time(s) thereof.

(Ord. No. 335, § 21, 10-18-77; Ord. No. 516, § 5, 11-1-94)

SECTION 15.5-33. RULES

The board shall given permission when it finds:

(1) That the proposed activity and use will not unreasonably interfere with, or detract from, the promotion of public health, welfare, safety and recreation;

(2) That the proposed activity or use is not reasonably anticipated to invite violence, crime, or disturbance of the peace;

(3) That the proposed activity will not entail unusual, extraordinary or burdensome expense or police operation by the city;

(4) That the facilities desired have not been reserved for other use on the day and hour requested in the application.

(Ord. No. 335, § 17, 10-18-77; Ord. No. 516, § 6, 11-1-94)

SECTIONS 15.5-34 – 15.5-44. RESERVED

Editor's note--Ord. No. 735, § 1, adopted January 4, 2010, repealed former § 15.5-34.

(Ord. No. 735, § 1, 1-4-10)

DIVISION 3. VEHICLES AND TRAFFIC*

***Cross reference(s)--**Police, Ch. 17; traffic and motor vehicles, Ch. 20.

SECTION 15.5-45. TRAFFIC RESTRICTIONS, GENERALLY

No person shall operate a vehicle in the parks in violation of Chapter 20 of this Code.

(Ord. No. 335, § 30, 10-18-77)

SECTION 15.5-46. AUTHORITY TO DIRECT PARKING AND MOVING OF VEHICLES

Park employees shall have authority to direct the parking and moving of vehicles in the parks.

(Ord. No. 335, § 14, 10-18-77)

SECTION 15.5-47. AUTHORITY TO DIRECT PARKING AND MOVING OF VEHICLES

No person shall operate or park any vehicle in any park, except on clearly marked and designated roadways or parking areas therein.
(Ord. No. 335, § 7, 10-18-77)

SECTION 15.5-48. VEHICLES PROHIBITED AFTER HOURS

It shall be unlawful for anyone to park or leave parked a vehicle within any park after closing hours.

(Ord. No. 335, § 23, 10-18-77)

SECTION 15.5-49. MAXIMUM SPEED LIMITS

The speed limit in all Dell Rapids parks shall be a maximum of fifteen (15) miles per hour.

(Ord. No. 335, § 29, 10-18-77)

SECTIONS 15.5-50 – 15.5-59. RESERVED

DIVISION 4. USE RESTRICTIONS*

***Cross reference(s)--**Advertising, Ch. 3; alcoholic beverages, Ch. 4; amusements, Ch. 5; animals and fowl, Ch. 6; buildings and building regulations, Ch. 7; garbage and refuse, Ch. 11; fireworks regulated, § 15-38; weapons, § 15-95 et seq.; peddlers, Ch. 16; police, Ch. 17; bicycles, § 20-307 et seq.; utilities, Ch. 21; trees on or near public property, § 22-20 et seq.

SECTION 15.5-60. TREES, SHRUBS, PLANTS PROTECTED

No person shall pick or cut any wild or cultivated flowers, or cut, break, dig or in any way deface any tree, shrub or plant within the limits of any park.

(Ord. No. 335, § 4, 10-18-77)

SECTION 15.5-61. PROTECTION OF PROHIBITED AREAS

No person shall go on foot or otherwise upon the grass or turf of any park or parkway where any prohibitory sign is posted.

(Ord. No. 335, § 5, 10-18-77)

SECTION 15.5-62. INJURING PARK PROPERTY

No person shall cut, break, scratch, mark, mar, or in any way injure or deface any building, fence, wall lamp, flagpole, construction improvement, facility or any other feature or property upon or within any park.

(Ord. No. 335, § 6, 10-18-77)

SECTION 15.5-63. LITTERING PROHIBITED

No person shall throw, deposit, place or leave in any park or parkway, or water therein, any paper, rubbish, waste, cans, bottles, or refuse of any kind, whether or not the same is offensive to the senses or is injurious to health, except in the receptacles provided for waste.

(Ord. No. 335, § 8, 10-18-77)

SECTION 15.5-64. RESTRICTIONS ON ABUTTING LANDOWNERS

The owner, occupant or person in charge of any land abutting upon any park shall not allow any earth, rubbish or refuse of any kind, whether or not the same is offensive to the senses or injurious to health, to fall or to wash upon or into any part of the park.

(Ord. No. 335, § 9, 10-18-77)

SECTION 15.5-65. HANDBILLS AND SIGNS PROHIBITED

No person shall distribute any handbills or erect any signs or post or affix any notice or bills or other writing to any tree, post, wall, fence or building or any other structure of improvement within any park.

(Ord. No. 335, § 10, 10-18-77)

SECTION 15.5-66. FIREARMS, GUNS AND EXPLOSIVES PROHIBITED

No person shall fire or discharge any gun or any other type of firearm or discharge or set off any type of weapon or similar device or anything containing any substance of a highly explosive character within any public park, except upon authority granted by the board.

(Ord. No. 335, § 11, 10-18-77; Ord. No. 516, § 8, 11-1-94)

SECTION 15.5-67. ANIMALS PROTECTED

No person shall rob, injure or destroy any bird nests within the limits of any park, nor aim or discharge any air gun, slingshot or other weapon, or throw any stones or other missiles at any bird or bird nest or any wild creature within any park; nor in any manner capture or attempt to capture or kill any bird or wild creature in any park.

(Ord. No. 335, § 12, 10-18-77)

SECTION 15.5-68. TRAPPING PROHIBITED

No person shall at any time trap, set, lay, prepare or have in possession any trap, snare, artificial light, net or any other device whatever for the purpose of catching, taking or killing any bird or wild creature in any park, with the exception of those devices which are necessarily used for fishing in the streams and lakes within the park system, as so permitted in other portions of this chapter.

(Ord. No. 335, § 13, 10-18-77)

SECTION 15.5-69. SELLING PROHIBITED EXCEPT BY AUTHORITY OF BOARD

No person shall sell or offer to sell any article or anything of any type in any park, but this prohibition shall not apply to sales of refreshments and other articles authorized by the board or under their direction at pavilions or stands conducted and authorized by the board.

(Ord. No. 335, § 19, 10-18-77)

SECTION 15.5-70. FIRES

No person shall start any fire in any park except in those places provided therefor by the board. Every person who starts or uses a fire shall completely extinguish the fire before leaving the park.

(Ord. No. 335, § 20, 10-18-77)

SECTIONS 15.5-71 – 15.5-73. RESERVED

Editor's note--Section 9 of Ord. No. 516, adopted Nov. 1, 1994, repealed §§ 15.5-71--15.5-73. Formerly, § 15.5-71 pertained to structures prohibited except by authority of board and derived from § 24 of Ord. No. 335, adopted Oct. 18, 1977; § 15.5-72 pertained to all utility lines and wires prohibited except by authority of board and derived from § 25 of Ord. No. 335; and § 15.5-73 pertained to alcoholic beverages prohibited, with exceptions, and derived from § 26 of Ord. No. 335.

SECTION 15.5-74. BICYCLING

Bicycle riders in the parks shall abide by the ordinances governing the operation and equipment of bicycles, except that bicycling need not be limited to paved areas. Bicyclists are required to operate their bicycles in a prudent manner and with due regard for the safety of others and the preservation of park property.

(Ord. No. 335, § 27, 10-18-77)

DIVISION 5. CAMPGROUND REGULATIONS

SECTION 15.5-75. CAMPING IN CITY CAMPGROUND

(1) All campers must register upon arrival. Campers who are not registered by 10:00 p.m. will be asked to leave. Camp spots are on a first come / first served basis, no reservations will be allowed.

(2) Daily non-refundable camping fees shall be paid according to the rate schedule from time to time adopted by the city council.

(3) Camping is allowed only in established camping areas.

(4) Campers are allowed to camp in one spot at the City campground for a maximum of 5 (five) consecutive days.

(Ord. No. 647, § 1, 4-7-03; Ord. No. 737, § 1, 4-5-10)

SECTION 15.5-76. TRASH AND REFUSE

All campers must deposit their garbage in one of several trash cans located throughout the park.

(Ord. No. 647, § 1, 4-7-03)

SECTION 15.5-77. CURFEW

(1) The City of Dell Rapids has a Curfew Ordinance Sec. 14-16 for minors. If any questions, please contact City Hall or the police officer on duty.

(2) Courtesy "light's out" policy by 11 p.m. Any loud or out of control groups or individuals will be asked to obey policy on first warning, and asked to leave on the 2nd warning.

(Ord. No. 647, § 1, 4-7-03)

SECTION 15.5-78. CAMPFIRES

Campfires are allowed only in designated campfire spots.

(Ord. No. 647, § 1, 4-7-03)

SECTION 15.5-79. ANIMAL CONTROL

All animals must be on a leash at all times, according to City Ordinance Sec. 6-27.

(Ord. No. 647, § 1, 4-7-03)

SECTION 15.5-80. RESERVED

Editor's note--Ord. No. 785, § 2, adopted December 16, 2013, repealed former § 15.5-80, pertaining to firearms, in its entirety.

(Ord. No. 647, § 1, 4-7-03; Ord. No. 785, § 2, 12-16-13)

CHAPTER 16 – PEDDLERS*

***State law reference(s)--**Authority to license, regulate peddlers, SDCL 9-34-8; authority to license, regulate transient merchants, transient stores, SDCL 9-34-7; local regulation of peddling and soliciting, SDCL 9-34-18.

Article I. In General

Section 16-1. Definition.
Section 16-2. Exceptions to chapter.
Section 16-3. Refusing to leave.
Section 16-4. Entrance to premises restricted.
Section 16-5. Misrepresentation.
Section 16-6. Hours of operation.
Sections 16-7 – 16-17. Reserved.

Article II. Offenses Against Public Peace

Section 16-18. Required.
Section 16-19. Application.
Section 16-20. Chapter 13 applicable.
Section 16-21. False information.
Section 16-22. Fingerprints, photographs.
Section 16-23. Fee.
Section 16-24. Issuance restricted.
Section 16-25. Display.
Section 16-26. Revocation.

ARTICLE I. IN GENERAL

SECTION 16-1. DEFINITION

The word "peddler" as used in this chapter shall mean any person, whether a resident of this city or not, traveling from place to place, from house to house, or from street to street for the purpose of selling or soliciting for sale goods, wares, merchandise or services, other than agricultural

products produced or processed in this state; and shall also mean and include any person transacting a temporary business within the city at an established place of business. The word "peddler" shall include the terms "solicitor," "transient or itinerant merchant or vendor," or "transient or itinerant photographer."

SECTION 16-2. EXCEPTIONS TO CHAPTER

The provisions of this chapter shall not apply to solicitations, sales or distributions made by charitable, educational or religious organizations which have their principal place of activity in the city.

SECTION 16-3. REFUSING TO LEAVE

Any peddler who enters upon premises owned or leased by another and refuses to leave the premises after having been notified by the owner or possessor of the premises, or his agent, to leave the same, shall be deemed guilty of a misdemeanor.

SECTION 16-4. ENTRANCE TO PREMISES RESTRICTED

It shall be unlawful for any peddler to enter upon any private premises when the same are posted with a sign stating "No Peddlers Allowed."

SECTION 16-5. MISREPRESENTATION

It shall be unlawful for any peddler to make false or fraudulent statements concerning the quality or nature of his goods, wares, merchandise or services for the purpose of inducing another to purchase the same.

SECTION 16-6. HOURS OF OPERATION

It shall be unlawful for any peddler to engage in the business of peddling between the hours of 8:00 p.m. and 9:00 a.m. the following morning, or at any time on Sundays, except by specific appointment with or invitation from the prospective customer.

SECTIONS 15.5-1 – 15.5-9. RESERVED

ARTICLE II. LICENSE*

***Cross reference(s)--**Licenses generally, Ch. 13.

SECTION 16-18. REQUIRED

It shall be unlawful for any person to engage in business as a peddler within this city without first obtaining a license so to do.

SECTION 16-19. APPLICATION

The application for a license required by the provisions of this article shall:

(1) Contain a statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any state or federal law or municipal ordinance or Code; the nature of the offense; the punishment or penalty assessed therefor, if previously convicted; and the place of conviction;

(2) Whether the applicant, upon any sale or order, shall demand, accept or receive payment, or deposit, of money in advance of final delivery;

(3) The period of time the applicant wishes to engage in business within the city;

(4) The local and permanent address of the applicant;

(5) The local and permanent address and the name of the person, if any, that the applicant represents;

(6) The kind of goods, wares, merchandise or services the applicant wishes to engage in such business within the city;

(7) The last five (5) cities or towns wherein the applicant has worked before coming to this city;

(8) Such other relevant information as the chief of police may require for the investigation of the applicant.

SECTION 16-20. CHAPTER 13 APPLICABLE

The provisions of chapter 13, insofar as the same may be applicable and not in conflict, shall apply to and govern the issuance of any license under the provisions of this article.

SECTION 16-21. FALSE INFORMATION

It shall be unlawful for any person to give any false or misleading information in connection with his application for a license required by this article.

SECTION 16-22. FINGERPRINTS, PHOTOGRAPHS

At the request of the municipal finance officer the applicant for a license required by this article, shall submit to fingerprinting and photographing by the chief of police.

SECTION 16-23. FEE

Before any license shall be issued under the provisions of this article, the applicant therefor shall pay a fee of thirty five dollars ($35.00) therefore.

(Ord. No. 760, § 1, 4-2-12)

SECTION 16-24. ISSUANCE RESTRICTED

No peddler's license shall be issued to a corporation, partnership or other impersonal legal entity, but each individual person engaging in the business of peddling within the city shall be required to have a license whether acting for himself or as an agent or representative of another.

SECTION 16-25. DISPLAY

Every peddler having a license issued under the provisions of this article and doing business within the city shall display his license upon the request of any person, and failure so to do shall be deemed a misdemeanor.

SECTION 16-26. REVOCATION

Any license issued under the provisions of this article may be revoked for the violation by the licensee of any provision of this Code, state law or city ordinance. Upon such revocation, such license shall immediately be surrendered to the chief of police, and failure to do so shall be a misdemeanor.

CHAPTER 17 – POLICE*

***Cross reference(s)--**Administration, Ch. 2; miscellaneous offenses and provisions, Ch. 15; impersonating officers, § 15-2; resisting process, § 15-3; delay, obstruction or resistance of public officer, § 15-4; escapes, § 15-5; fleeing from law enforcement officer, § 15-16; streets, sidewalks and other public places, Ch. 19; traffic and motor vehicles, Ch. 20.

State law reference(s)--Law enforcement, SDCL tit. 23.

Article I. In General

Sections 17-1 – 17-15. Reserved.

Article II. Disposition of Abandoned Property

Section 17-16. Prohibited; nuisance.
Section 17-17. Expense made lien.
Section 17-18. Sale and disposition.

ARTICLE I. IN GENERAL

SECTIONS 17-1 – 17-15. RESERVED

ARTICLE II. DISPOSITION OF ABANDONED PROPERTY*

***Cross reference(s)--**Abandoned, wrecked, dismantled or inoperative motor vehicles, § 20-349 et seq.

SECTION 17-16. PROHIBITED; NUISANCE

No person shall abandon, leave or place in any street, alley or public place of the city any property of any kind; and no person shall permit any property of any kind so abandoned, left or placed to be or remain for more than twenty-four (24) hours in any street, alley or public place of the city, adjacent to or in the vicinity of his property or residence without reporting same; and any property so abandoned, left or placed in any such street, alley or public place and any property abandoned, left or placed by any person on any private property of which report or complaint may have reached any bureau or department of the city, is declared to be a public nuisance and an obstruction and a menace to the public welfare, comfort, safety and health.

SECTION 17-17. EXPENSE MADE LIEN

It shall be the duty of the police department to take possession of any article of property abandoned, left or placed on any public or private property, and if the same is believed to have any value, to keep it and make an attempt to find the owner thereof, and to retain any such article heretofore so taken up by it. It shall be the duty of the department to maintain a place for the keeping of any such article until the same shall be claimed or otherwise disposed of and the city shall have a lien thereon for the reasonable expenses incurred and value or cost of the time and effort necessary in taking, removing and storing such article, and for the value of the storage and keeping thereof, and may retain possession until any and all such liens are discharged.

SECTION 17-18. SALE AND DISPOSITION

If any abandoned article of property has been or is kept for thirty (30) days or more without being claimed, the same may be disposed of by the police department:

(1) If of no value or slight value, it may be destroyed;

(2) If of slight value but of use to the city, it may be turned over to the proper department and used until claimed and the charges hereby made a lien thereon shall be regarded as a sufficient offset to the value, of any such use;

(3) If of more than slight value, it may be sold by the department ten (10) days after notice of such sale has been given by one publication in a legal newspaper published in the city, and the city may be a bidder at such sale. If on any such sale an amount is bid in excess of the charges or lien of the city, such excess shall be deposited to the credit of the general fund of the city.

CHAPTER 18 – RAILROADS*

***Cross reference(s)--**Streets, sidewalks and other public places, Ch. 19; traffic and motor vehicles, Ch. 20; railroad intersections, § 20-162; stopping at railroad crossing signals, § 20-217; certain vehicles must stop at railway grade crossings, § 20-218.

State law reference(s)--Carrier and utility franchises and regulation, SDCL ch. 9-35.

Section 18-1. Obstructing crossings.
Section 18-2. Speed of trains.

SECTION 18-1. OBSTRUCTING CROSSINGS

It shall be unlawful for the directing officer or the operator of any railroad train or car to direct the operation of or to operate the same in such manner as to prevent unnecessarily the use of any street for purposes of travel for a period of time longer than five (5) minutes, except that this provision shall not apply to trains or cars in continuous motion.

(Ord. No. 128, § 76, 2-2-26)

SECTION 18-2. SPEED OF TRAINS

The speed at which any railroad equipment may be operated within the city shall be reasonable under the existing conditions, with due regard to the safety of the public. At no time shall a railroad train be operated in excess of twenty (20) miles per hour.

(Ord. No. 128, § 75, 2-2-26)

CHAPTER 19 – STREETS, SIDEWALKS AND OTHER PUBLIC PLACES*

***Cross reference(s)--**Distribution of handbills restricted in public places, § 3-18; animals running at large prohibited, § 6-2; dogs, cats at large, § 6-27; buildings and building regulations, Ch. 7; curfew for minors, § 14-16 et seq.; loitering, § 15-9; parks and recreation, Ch. 15.5; police generally, Ch. 17; railroads, Ch. 18; contractors' excise tax, § 19.5-46 et seq.; traffic and motor vehicles, Ch. 20; operation of snowmobiles on sidewalks prohibited, § 20-292; riding bicycles on certain sidewalks prohibited, § 20-318; utilities, Ch. 21; trees on or near public property, § 22-20 et seq.; zoning ordinance, App. B; floodplain management, App. C; subdivisions, App. D; franchises, App. E.

State law reference(s)--Regulation of streets and public places, SDCL ch. 9-30; street and alley improvements, SDCL ch. 9-45; sidewalk improvements, SDCL ch. 9-46.

Article I. In General

Section 19-1. Ordinances saved from repeal.
Section 19-2. Names of streets and avenues.
Section 19-3. Street grades.
Section 19-4. Alley grades.
Section 19-5. Roadway widths.
Section 19-6. Damage.
Section 19-7. Goods on sidewalks.
Section 19-8. Construction materials--Keeping restricted.
Section 19-9. Same--Removal; warning lights.
Section 19-10. Placing of posts and awnings.
Section 19-11. Eave pipes and drains.
Section 19-12. Hindering improvements.
Sections 19-13 – 19-23. Reserved.

Article II. Excavations

Division 1. Generally

Section 19-24. Supervision.
Section 19-25. Restoring pavements or streets surfacing to former condition.
Section 19-26. Protection of public.
Section 19-27. Reserved.
Sections 19-28 – 19-33. Reserved.

Division 2. Permit

Section 19-34. Required.
Section 19-35. Application.
Section 19-36. Fee.
Section 19-37. Condition of issuance.
Sections 19-38 – 19-48. Reserved.

Article III. Sidewalk Construction

Section 19-49. When and where required.
Section 19-50. Supervision.
Section 19-51. Approval generally.
Section 19-52. Specifications.
Section 19-53. Permit required.
Section 19-54. Bond required of contractors and other persons.
Section 19-55. Width of sidewalks.
Section 19-56. Wheelchair curb ramps.
Sections 19-59, 19-58. Reserved.

Article IIIA. Street Construction

Section 19-59. General responsibility.
Section 19-60. City approval, engineering.
Section 19-61. Project cost. (Repealed)
Section 19-62. Subsequent maintenance.
Section 19-63. Application of subdivision ordinance, Appendix D.
Section 19-64. Variances.
Sections 19-65, 19-66. Reserved.

Article IV. Snow and Ice Removal

Section 19-67. Duty of property owner or occupant.
Section 19-68. Notice.

Section 19-69. Removal by city.
Sections 19-70, 19-71. Reserved.
Sections 19-72 – 19-80. Reserved.
Sections 19-81, 19-82. Reserved.

Article V. Numbering of Buildings

Section 19-83. Beginning.
Section 19-84. Odd and even numbers.
Section 19-85. North and south streets.
Section 19-86. East and west streets.
Section 19-87. Consecutive numbering; indication on building permit.

ARTICLE I. IN GENERAL

SECTION 19-1. ORDINANCES SAVED FROM REPEAL

Nothing contained in this Code of Ordinances, nor in the ordinance adopting this Code, shall be construed to repeal or otherwise affect in any manner:

(1) Any ordinance dedicating, naming, establishing, locating, relocating, opening, widening, paving, improving or abandoning any street, alley or other public way in the city; or

(2) Any ordinance establishing the grades and widths of any street, alley or other public way in the city; and all such ordinances are hereby saved from repeal and recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

SECTION 19-2. NAMES OF STREETS AND AVENUES

The names of all the streets and avenues in the city heretofore designated are hereby fixed and adopted in accordance with and as shown by the map of the city prepared by the Land Survey and Engineer firm of Schmidt, Kalda and Associates of Sioux Falls, South Dakota, designated as Map A, now on file in the office of the municipal finance officer, which is hereby designated and adopted as the official map of the city. All thoroughfares of the city running east and west, except alleys, shall be called streets and all thoroughfares running north and south shall be called avenues.

(Ord. No. 237, § 1, 1-3-67)

SECTION 19-3. STREET GRADES

The grades of the streets in the city shall be on file in the office of the municipal finance officer and are hereby established and designated as the grades of the streets of the city, and the records thereof are incorporated herein by reference and adopted as the official record of the grades of streets in the city.

SECTION 19-4. ALLEY GRADES

The grades of alleys in the city shall be on file in the office of the municipal finance officer and are hereby established and designated as the grades of the alleys of the city, and the records thereof are incorporated herein by reference and adopted as the official record of the grades of alleys in the city.

SECTION 19-5. ROADWAY WIDTHS

The widths of the roadways between curb lines for vehicular traffic on the various streets in the city are hereby fixed and established in accordance with the official record of the width of roadways in the city on file in the office of the municipal finance officer, which record is incorporated herein by reference and is designated and adopted as the official record of the width of roadways in the city.

SECTION 19-6. DAMAGE

No person without proper authority shall tear up, break, or injure any pavement, crosswalk, sidewalk or other improvement in any street or public ground.

SECTION 19-7. GOODS ON SIDEWALKS

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

(Ord. No. 128, § 11, 2-2-26)

SECTION 19-8. CONSTRUCTION MATERIALS--KEEPING RESTRICTED

The city council is authorized to grant permission to any person to deposit and keep lumber, stone, brick or other material for building, in any public street, road, alley, adjacent to the building to be erected or repaired, for a space of time not exceeding sixty (60) consecutive days; but such

permission shall not excuse the obstruction or occupancy with such material of more than one-third in width of any sidewalk, or more than one-third in width of any street, or road, or the placing of such material in such a way as to impede the free flow of water in the side gutter.

(Ord. No. 128, § 7, 2-2-26)

SECTION 19-9. SAME--REMOVAL; WARNING LIGHTS

Every person to whom permission may be granted as provided in section 19-8, to place and keep building material in any street, road or alley, shall cause all such material and the rubbish resulting therefrom to be removed from such street, road or alley, at the expiration of the time limited, unless the time shall for good cause, be extended by the city council, and any person depositing and keeping any building material in any street, road or alley under permission from the city council, shall during the period from sunset until one-half hour after sunrise, keep warning lights to persons passing along such street, highway, road or alley.

(Ord. No. 128, § 8, 2-2-26)

SECTION 19-10. PLACING OF POSTS AND AWNINGS

No person shall set any post or other obstruction in any road, street, alley or sidewalk in the city for the purpose of fastening thereto any awning or sign; nor shall any person drop any awning of any material, or suffer the same to approach nearer to the surface of the sidewalk than seven (7) feet.

(Ord. No. 128, § 12, 2-2-26)

SECTION 19-11. EAVE PIPES AND DRAINS

No person shall allow or suffer to be allowed or maintain any pipe or drain leading from the eaves of any building in such a manner that the water or material discharged therefrom may flow upon or over any public sidewalk, street or alley.

(Ord. No. 128, § 15, 2-2-26)

SECTION 19-12. EAVE PIPES AND DRAINS

No person shall hinder or obstruct the city, its agents or employees, in making any improvements in any street, sidewalk, alley or public ground of the city.

(Ord. No. 128, § 16, 2-2-26)

SECTIONS 19.13 – 19.23. RESERVED

ARTICLE II. EXCAVATIONS*

***State law reference(s)--**Utility openings and lights in streets and alleys, SDCL 9-30-1.

DIVISION 1. GENERALLY

SECTION 19-24. SUPERVISION

The superintendent of streets, under the general direction of the city council, shall supervise all excavations made for any purpose in the streets, alleys or public or private grounds, and shall require compliance with all the requirements of this article.

(Ord. No. 374, § 1, 6-16-81)

SECTION 19-25. RESTORING PAVEMENTS OR STREETS SURFACING TO FORMER CONDITION

It shall be the duty of the municipal finance officer to keep on file all copies of permits issued under this article and to have the superintendent of streets inspect from time to time all pavements, surfaces or grounds whatsoever, disturbed pursuant to such permits. If such pavements, surfaces or grounds are not restored and maintained as nearly as possible to the original condition thereof, the finance officer shall give written notice thereof by regular mail to the permittee, giving him three (3) days to place the same in good condition once again. If, after such time period, the pavement, surface or ground is not restored, the necessary repairs or restoration shall be completed at the direction of the city council and the costs thereof shall be paid by such permittee.

In addition to all available remedies at law and in equity, the said permittee shall be issued no permits either directly or indirectly, until the costs thereof have been paid to the city.

(Ord. No. 374, § 1, 6-16-81)

SECTION 19-26. PROTECTION OF PUBLIC

Any person receiving a permit to make excavations pursuant to this article shall, during the progress and continuance of the work, erect and maintain around the same, both by day and night, suitable guards, fences, lanterns and signals, so as to prevent injury to persons, animals, or vehicles on account of such excavations. Such lanterns shall be kept lighted from sundown until sunrise.

(Ord. No. 374, § 1, 6-16-81)

SECTION 19-27. RESERVED

Editor's note--Ord. No. 374, § 1, adopted June 16, 1981, repealed former § 19-27, pertaining to excavations near streets, in its entirety; said section had been derived from Code 1977.

SECTIONS 19.28 – 19.33. RESERVED

DIVISION 2. PERMIT

SECTION 19-34. REQUIRED

No person shall make or cause to be made any excavation in, under or upon any street, parking area, sidewalk, alley or public or private ground, or remove any earth, soil, paving, gravel or material, whatsoever, therefrom without first having obtained a permit therefor from the municipal finance officer.

(Ord. No. 374, § 1, 6-16-81)

SECTION 19-35. APPLICATION

Before any permit is issued under the provisions of this division, the person requiring the same shall make application to the municipal finance officer; which application shall state where such excavation is to be made, the extent thereof, in front of which lot or lots such excavation is to be made and the purpose of such excavation.

(Ord. No. 374, § 1, 6-16-81)

SECTION 19-36. FEE

The fee for the permit required by this division shall be as from time to time set by the city council.

(Ord. No. 374, § 1, 6-16-81)

SECTION 19-37. CONDITION OF ISSUANCE

All excavation permits under this division shall be issued only upon the express condition that the permittee shall refill the excavation in accordance with the instructions of the superintendent of streets and restore the pavement, surface or ground, as the case may be, to its original condition and maintain it in such condition for a period of three (3) years from the time of such completion of the work authorized by such permit.

(Ord. No. 374, § 1, 6-16-81)

SECTIONS 19.38 – 19.48. RESERVED

ARTICLE III. SIDEWALK CONSTRUCTION*

***State law reference(s)--**Sidewalk improvements, SDCL ch. 9-46.

SECTION 19-49. WHEN AND WHERE REQUIRED

It is the policy of the city, that there are many areas of the city where [a] sidewalk is not practical, not possible and not necessary, and therefore shall not be required along all public street rights of way. Sidewalk[s] may be required only along those specific streets, where, following study, it is reasonably determined by the city council that, due to the increased vehicular traffic, increased pedestrian traffic, or close proximity to any school, that sidewalk would provide more than minimal safeguard for pedestrians walking along those specific street rights of way. Nothing herein shall effect the application and enforcement of section 505 of the city's Subdivision Ordinance.

(Ord. No. 493, § 1, 4-13-93)

SECTION 19-50. SUPERVISION

The building and construction of all sidewalks within the city shall be done under the direct supervision of the city engineer.

SECTION 19-51. APPROVAL GENERALLY

The construction of sidewalks within the city shall be approved by the city engineer prior to the issuance of a certificate of occupancy as provided by the building code; except where conditions exist which in the opinion of the engineer justify waiver thereof.

SECTION 19-52. SPECIFICATIONS

The construction of all sidewalks, whether to be done by direct contract with the city or by contract with the abutting property owners, shall be done strictly in accordance with specifications for sidewalks adopted by the city council and on file in the office of the municipal finance officer. The city engineer shall have full power to condemn work and material not in accordance with the requirements of the specifications.

SECTION 19-53. PERMIT REQUIRED

Before any sidewalk or private driveway approach is constructed within the streets by any contractor or person for the owners of abutting property, the contractor or person must first secure a permit therefor from the municipal finance officer and must comply with all of the provisions of division 2 of article II of this chapter.

SECTION 19-54. BOND REQUIRED OF CONTRACTORS AND OTHER PERSONS

Before any contractor shall receive a permit for the construction or installation of any sidewalk for others within the streets he must first execute a guaranty bond in amount equal to the total cost of work to be performed by him under the agreement, signed by some surety company, approved by the city council, or a bond for the same purpose and amount signed by two (2) sureties, which must be approved by the council. In lieu thereof such contractor may give bond in the amount of one thousand dollars ($1,000.00) covering all work to be done by him during the year in which the bond is given. All such bonds shall provide that the contractor constructing or installing such sidewalks shall replace all sidewalks constructed by him at any time within a period of three (3) years from time of completion of the sidewalk, which in the opinion of the city engineer was not laid in accordance with the required specifications.

If any person or individual desires to install or construct a sidewalk within the streets and which is in front of or along property owned or occupied by him he shall make application for permit as provided in section 19-53. Before issuance of such permit such person or individual must first execute a guaranty bond in such form as may be provided by the municipal finance officer, which bond shall be in an amount equal to the total cost of the sidewalk to be constructed. All such bonds shall provide that the person or individual requiring such permit shall replace all sidewalks constructed by him at any time within a period of three (3) years from time of completion of said sidewalk, which in the opinion of the engineer were not laid in accordance with the required specifications.

SECTION 19-55. WIDTH OF SIDEWALKS

The width of all sidewalks shall be determined by the city engineer and in the residential district shall not be wider than five (5) feet and in the business district shall be from the curbline to the property line.

SECTION 19-56. WHEELCHAIR CURB RAMPS

Wheelchair curb ramps shall be installed at all crosswalks, in both business and residential areas, when making new installations of sidewalks, curbs, or gutters, or improving or replacing existing sidewalks, curbs or gutters, so as to make the transition from street to sidewalk easily negotiable for handicapped persons in wheelchairs and for blind persons. All such ramps shall be constructed or installed in accordance with design specifications prepared by the department of transportation, according to the most current American National Standards specifications published by the American National Standards Institute.

(Ord. No. 401, § 1, 8-7-84)

SECTIONS 19-57, 19-58. RESERVED

ARTICLE IIIA. STREET CONSTRUCTION

SECTION 19-59. GENERAL RESPONSIBILITY

The planning, layout, building, construction and maintenance of all streets and roadways within the city shall be done by or at the cost of the owner, developer or builder under the supervision of the city according to the engineering standards and specifications of the city's engineer unless otherwise provided in this article. It shall be the general policy of the city that no street construction or improvement shall be allowed unless there is first in place curb and gutter to the specifications of the city's engineer. It shall also be the general policy of the city that, before any street construction or improvement is approved, there shall first be presented to the city council for its consideration a petition signed by owners of at least fifty (50) per cent of the front footage of the property involved in any proposed street improvement.

(Ord. No. 455, § 1, 3-20-90)

SECTION 19-60. CITY APPROVAL, ENGINEERING

On the application of any builder, developer, or the requisite number of property owners, the city council may, if it deems the project worthwhile to proceed, approve the same, and authorize the builder, developer or owner to commence the necessary beginning investigation and study, including the meeting with the city street and utility representatives and the city engineer. The owner, builder or developer shall hire and pay for his own engineer, and in the event the owner,

builder or developer shall hire the person or firm that is also the city's engineer, the owner, builder or developer shall pay for the engineering services of that person or firm. Document No. 031698, entitled: Technical Specifications for Street Construction for Dell Rapids, South Dakota, is hereby adopted and shall be applicable for all street construction and improvement within the city. Copies of Document No. 031698 shall be available from the Municipal Finance Officer.

(Ord. No. 455, § 1, 3-20-95; Ord. No. 532, § 1, 12-19-95; Ord. No. 563, § 1, 3-16-98)

SECTION 19-61. PROJECT COST (REPEALED)

(Ord. No. 913 § 1, 7-22)

SECTION 19-62. SUBSEQUENT MAINTENANCE

Once a street is installed and paved to the specifications of the city's engineer, including appropriate base material and thickness and surface material and thickness, the city shall have the responsibility of continued regular maintenance.

(Ord. No. 455, § 1, 3-20-90)

SECTION 19-63. APPLICATION OF SUBDIVISION ORDINANCE, APPENDIX D

When not in conflict with this article, the provisions of the city's subdivision ordinance, Appendix D, of the Revised Ordinances of the city shall apply to all street construction.

(Ord. No. 455, § 1, 3-20-90)

SECTION 19-64. VARIANCES

The city shall have the right but not the obligation to grant variances from any of the provisions of this article upon written application of any owner, builder or developer if the city council deems it appropriate to do so. The written application shall specify the reasons for the variance, and no variance shall be granted except for good cause and then only upon an affirmative vote of sixty (60) per cent of the council persons present and voting upon any variance question.

(Ord. No. 455, § 1, 3-20-90)

SECTIONS 19-65, 19-66. RESERVED

ARTICLE IV. SNOW AND ICE REMOVAL*

***Cross reference(s)--**Obstructing snow removal and street cleaning, § 20-261; emergency snow routes, § 20-267.

State law reference(s)--Authority to require snow removal, SDCL 9-30-5.

SECTION 19-67. DUTY TO REMOVE

It shall be the duty of the owner or person in possession or in charge of any lot, parcel or plot of ground fronting or abutting upon any sidewalk to keep the sidewalk free from snow and ice and to cause any accumulated snow and ice to be removed within twenty-four (24) hours after the termination of any snowfall, or snow accumulation. Upon the failure, neglect or refusal of any owner or person in possession or in charge of any lot, parcel or plot of ground fronting or abutting any sidewalk to comply with the provisions of this Section, the City Administrator or his or her designee, is authorized and empowered to cause such work as may be necessary to provide for compliance. The penalty for violation of this Section shall be the actual cost of removal of said snow and ice, plus $50.00, to be paid within thirty days. If the penalty for violation is not received, the City may defray the cost of the work by special assessment against the property. In addition to the abatement remedies provided in this Section, any person violating this Section shall be subject to the general penalty provision as set forth in Section 1-4.

(Ord. No. 128, § 84, 2-2-26; Ord. No. 783, § 1, 12-16-13)

SECTION 19-68. DISPOSAL OF SNOW AND ICE

It shall be the duty of the property owner, tenant, or person in possession of any public or private driveway, parking lot, parking area or boulevard to dispose of accumulated snow and ice upon such property in such manner that any snow and ice when removed shall not be deposited upon any sidewalk or within or upon any public street or alley or in a manner that will obstruct or interfere with the passage or vision of vehicle or pedestrian traffic. Snow and ice which is removed from a sidewalk, parking lot, driveway or other areas shall be placed on the abutting boulevard or yard. It is unlawful for any person to dispose of or move snow and ice from private property or abutting public areas onto a public street, alley or sidewalk. An exception applies to certain defined properties located within the B-1: Central Business District that are adjacent to 4th Street and lying between Clark Avenue and Garfield Avenue and adjacent to 3rd Street lying between Clark Avenue and Orleans Avenue. Further exception applies to properties that are adjacent to 3rd Street and lying between Clark Avenue and Hwy 115 and adjacent to Juniata Avenue and lying between 4th

Street and Hwy 115. These defined properties are granted the authority to move such accumulated sidewalk snow and ice onto the abutting City Street prior to the removal and clearing of snow and ice by the grading of such snow and ice away from the curb or by the picking up and carrying away such snow and ice by the City or it's private contractors.

(Ord. No. 128, § 85, 2-2-26; Ord. No. 783, § 1, 12-16-13; Ord. No. 938, § 1, 12-16-24)

SECTION 19-69. REMOVAL NOTICE

No penalty or special assessment shall be imposed under this article unless the City causes notice to be given to all owners or occupants of property abutting sidewalks in said City to keep such sidewalks free of snow and ice, and to remove the same within the twenty-four (24) hours after the termination of every snowfall, or snow accumulation. Such notice shall be published in the official newspaper twice a year, the first being on or around November 1 and the second to be published consecutively thereafter.

(Ord. No. 128, § 86, 2-2-26; Ord. No. 783, § 1, 12-16-13)

SECTIONS 19-70, 19-71. RESERVED

Editor's note--Former §§ 19-70 and 19-71 pertained to costs assessed and unlawful placement, were repealed by § 1 of Ord. No. 783, adopted December 16, 2013.

(Ord. No. 128, § 86, 2-2-26; Ord. No. 783, § 1, 12-16-13)

SECTIONS 19-72 – 19-80. RESERVED

Editor's note--Former §§ 19-72, 19-73, 19-74, 19-75, 19-76, 19-77, 19-78, 19-79, and 19-80 pertained to snow plowing and removal, were repealed by § 1 of Ord. No. 751, adopted October 17, 2011, and originated from Ord. No. 398, adopted December 20, 1983.

(Ord. No. 398, 12-20-83; Ord. No. 429, § 1, 11-4-86; Ord. No. 751, § 1, 10-17-11)

SECTIONS 19-81, 19-82. RESERVED

ARTICLE V. NUMBERING OF BUILDINGS

SECTION 19-83. BEGINNING

All buildings on the streets and avenues shall be numbered, commencing from First Street and Juniata Avenue, and shall be numbered north, south, east and west from First Street and Juniata Avenue, as the case may be, as far as the streets or avenues may be extended.

(Ord. No. 237, § 3, 1-3-67)

SECTION 19-84. ODD AND EVEN NUMBERS

Buildings on the east side of any street or avenue shall be given even numbers, and the buildings on the west side thereof shall be given odd numbers. Buildings on the north side of any street or avenue shall be given even numbers, and buildings on the south side shall be given odd numbers.

(Ord. No. 237, § 2, 1-3-67)

SECTION 19-85. NORTH AND SOUTH STREETS

On all streets and avenues intersecting First Street and running north and south the first block to the north or south of First Street shall be numbered 100, north or south as the case may be, and the numbers shall be increased at the rate of one hundred (100) for each block or space between two (2) streets, north or south of First Street. The first number to the north or south of any intersection of the streets and avenues running north and south shall be a multiple of one hundred (100), and therefrom within each block the buildings or lots shall be numbered consecutively to the north or south as the case may be. To designate the numbers on streets or avenues running north and south of First Street, the words "North" or "South" shall be placed between the number and name of the street or avenue, according as the same may be north or south of First Street.

(Ord. No. 237, § 4, 1-3-67)

SECTION 19-86. EAST AND WEST STREETS

On all streets and avenues intersecting Juniata Avenue and running east and west the first block to the east or west of Juniata Avenue shall be numbered 100, east or west as the case may be, and the numbers shall be increased at the rate of one hundred (100) for each block or space between two (2) streets, east or west of Juniata Avenue. The first number to the east or west of any intersection of streets and avenues running east and west shall be a multiple of one hundred (100), and therefrom within each block the buildings or lots shall be numbered consecutively to the east or west as the case may be. To designate the numbers on streets or avenues running east and west of Juniata Avenue the words "East" or "West" shall be used between the number and the name of the street or avenue, according as the same may be east or west of Juniata Avenue.
(Ord. No. 237, § 5, 1-3-67)

SECTION 19-87. CONSECUTIVE NUMBERING; INDICATION ON BUILDING PERMIT

Each building, business place, dwelling house or lot fronting on a street or avenue shall be numbered in consecutive order within each block and as provided by this article. In case any building, business place, dwelling house or lot fronting on a street or avenue is incorrectly numbered the city council may order the owner thereof to correctly number the same, and it shall be unlawful for such owner to refuse to comply with the provisions of this article upon such order by the city council. The number of any such structure hereafter erected, as determined by the city council, shall be indicated on the building permit.

(Ord. No. 237, § 6, 1-3-67)

CHAPTER 19.5 – TAXATION*

***State law reference(s)--**Taxation, SDCL tit. 10.

Article I. In General

Sections 19.5-1 – 19.5-5. Reserved.
Section 19.5-6. Special tax assessment valuation formula.
Section 19.5-7. City's taxing jurisdiction.
Section 19.5-8. Qualification for special valuation formula.
Sections 19.5-9 Special Assessments.
Sections 19.5-15. Reserved.

Article II. Tax Levy for County Fire Protection

Section 19.5-16. County authorized to assess tax.
Section 19.5-17. County required to obtain annual city approval.
Sections 19.5-18 – 19.5-23. Reserved.

Article III. City Sales Tax

Section 19.5-24. Purpose.
Section 19.5-25. Effective date.
Section 19.5-26. Collection.
Section 19.5-27. Exemptions from taxation.
Section 19.5-28. Use tax.
Section 19.5-29. Interpretation.
Section 19.5-30. Penalty.

Sections 19.5-31 – 19.5-45. Reserved.

Article IV. Contractors' Excise Tax

Section 19.5-46. Purpose.
Section 19.5-47. Effective date.
Section 19.5-48. Collection.
Section 19.5-49. Exemptions.
Section 19.5-50. Interpretation.
Section 19.5-51. Penalty.
Sections 19.5-52 – 19.5-60. Reserved.

Article V. Urban and Rural Service Districts

Section 19.5-61. Service Districts Established.
Section 19.5-62. Rural Service District – Criteria for Lands Included.
Section 19.5-63. Rural Service District.
Section 19.5-64. Urban Services District – Lands Included.
Section 19.5-65. Agricultural Land Annexed – Limitation on Mill Levy and Assessed Value.
Section 19.5-66. Platting or Construction in Rural District – Report – Transfer to Urban District.
Section 19.5-67. Filing Ordinance Amendment or Order with County Auditor.
Exhibit "A".

ARTICLE I. IN GENERAL

SECTIONS 19.5-1 – 19.5-5. RESERVED

SECTION 19.5-6. SPECIAL TAX ASSESSMENT VALUATION FORMULA

There is hereby established the following special tax assessment valuation formulas for improvements added to real property within the taxing jurisdiction of the City.

(a) For any new industrial, commercial or non-residential agricultural structures, or for additions, renovations or reconstructions to existing industrial, commercial or non-residential agricultural structures, that meet the standards specified by SDCL § 10-6-137 (1), (2), (3), (4) or (8), the valuation shall be as follows:

(1) For the first tax year following construction, none (0) of the assessed valuation shall be included for tax purposes;

(2) For the second tax year following construction, twenty-five (25) per cent of the assessed valuation shall be included for tax purposes;

(3) For the third tax year following construction, fifty (50) per cent of the assessed valuation shall be included for tax purposes;

(4) For the fourth tax year following construction, seventy-five (75) per cent of the assessed valuation shall be included for tax purposes;

(5) For the fifth tax year following construction, seventy-five (75) per cent of the assessed valuation shall be included for tax purposes; and

(6) For the sixth tax year following construction, and for every tax year thereafter, one hundred (100) per cent of the assessed valuation shall be included for tax purposes.

(b) For any new commercial residential structure or addition to an existing residential structure containing four or more units, for any new affordable housing structure containing four or more units or for any new residential structure or addition to or renovation of an existing structure located within a redevelopment neighborhood, that meets the standards specified by SDCL 10-6-137 (5), (6) or (7), the valuation shall be as follows:

(1) For the first tax year following construction, twenty-five (25) per cent of the assessed valuation shall be included for tax purposes;

(2) For the second tax year following construction, twenty-five (25) per cent of the assessed valuation shall be included for tax purposes;

(3) For the third tax year following construction, fifty (50) per cent of the assessed valuation shall be included for tax purposes;

(4) For the fourth tax year following construction, fifty (50) per cent per cent of the assessed valuation shall be included for tax purposes;

(5) For the fifth tax year following construction, seventy-five (75) per cent of the assessed valuation shall be included for tax purposes;

(6) For the sixth tax year following construction, seventy-five (75) per cent of the assessed valuation shall be included for tax purposes; and

(7) For the seventh tax year following construction, and for every tax year thereafter, one hundred (100) per cent of the assessed valuation shall be included for tax purposes.

(Ord. No. 485, § 1, 7-7-92; Ord. No. 924, § 1, 7-5-23)

SECTION 19.5-7. CITY'S TAXING JURISDICTION

The provisions of section 19.5-6 shall apply to all structures and additions located within the city and within three (3) miles of the corporate limits of the city.
(Ord. No. 485, § 1, 7-7-92)

SECTION 19.5-8. QUALIFICATION FOR SPECIAL VALUATION FORMULA

No real property shall qualify for the new construction tax incentive, described in section 19.5-6 above, if the structure fails to comply with all air and water pollution laws and standards, and any other applicable laws and standards, which are enacted and may be enacted from time to time by the State of South Dakota.

(Ord. No. 485, § 1, 7-7-92)

SECTION 19.5-9. SPECIAL ASSESSMENTS

SECTION 19.5-9.1. GENERAL POLICY STATEMENT

The purpose of this Special Assessment Ordinance is to establish the policies and procedures in accordance with the South Dakota Codified Laws, Chapter 9-43, for the construction and financing of local improvement projects through assessment of benefited properties by the City of Dell Rapids.

The ordinance is intended to serve as a guide for the special assessments on local improvement to ensure consistent, fair, and equitable treatment of all property owners sharing in the special benefit of the street and utility improvements as determined by the City.

Local improvements are defined as the process of building, altering, repairing, improving, or demolishing any local infrastructure facility, including any structure, building, or other improvement of any kind to real property as defined in the South Dakota Codified Laws Chapter 9-43-75. The following types of local improvements which part or all the cost of the improvements is to be assessed to benefitting properties includes street grading, base course and pavement, curb and gutter, driveway pavement, sidewalks, retaining walls, sanitary sewer mains and services, water main and water services, storm sewer trunk lines and laterals, erosion control items, seeding/ turf establishment, and all related grading work and pipe appurtenances. The assessable costs shall include, but not be limited to, construction costs, engineering costs, and property acquired for infrastructure including, property purchase and closing costs, and all other legal and administrative fees. (SDCL 9-43).

SECTION 19.5-9.2. DEFINITIONS.

In the application of this Special Assessment Policy, the rules and definitions contained in this section shall be observed and applied, except when the context when the context clearly indicates otherwise.

Abutting - Contiguous or having a common boundary.

Adjusted Front Footage - The number of feet used in calculating an Assessment applied for each individual property based on the methods described in the Ordinance.

City - The City of Dell Rapids, South Dakota

Deferred Assessment - A dollar amount applied for improvements or services provided to selected properties receiving special benefit that the City elects to not collect until a specific time or event as defined by the South Dakota Codified Laws and the Special Assessment Ordinance.

Driveway - A private road that gives access to a house or property from a public roadway.

Larger lot or Parcel - One or more separate parcels of land that are under the same ownership that collectively are greater than 160 acres in size and that are unimproved in terms of infrastructure.

Local Improvement - The process of building, altering, repairing, improving, or demolishing any local infrastructure facility, including any structure, building, or other improvement of any kind to real property as defined in the South Dakota Codified Laws.

Lot - Land occupied or intended for occupancy by a use or uses permitted by the City of Dell Rapids. It shall have its principal footage upon a street or an officially approved access. The terms *parcel* and *tract* may be used with the same definition within this Ordinance.

Oversizing - A pipe or pavement surface that is designed and constructed larger or wider than what is needed to adequately service a specific project area abutting the improvement.

Property line - A line of record bounding a lot that divides one (1) lot from another lot or from a public or private street or any other public space.

Reconstruction - Infrastructure which currently exists and will be replaced for a similar use.

Special Assessment - A dollar amount applied for improvements or services provided to selected properties receiving special benefit.

Service line - A water or sanitary sewer pipe that is installed between the main line to the property line to service individual properties.

Trunk Line - Water and sewer pipes that serve as large capacity mains to service larger areas and multiple basins outside of the areas adjacent to the main.

SECTION 19.5-9.3. METHODS OF ASSESSMENT.

There are a number of methods of assessment that may be used: adjusted front footage, area, per lot, per each, zone, fair market value before and after improvements, use of improvements, and block-by-block. The City shall determine one method for each project or specific improvement, based upon which method would best reflect the special benefit received for the area to be assessed.

The assessment rate determined for each property receiving special benefit shall be equal to the assessable cost of the project divided by the total number of assessable units benefitted by the improvements.

The following methods of assessment, as described and defined below, are hereby established as methods of assessment in the City of Dell Rapids.

19.5-9.3-1. Adjusted Front Footage Method of Assessment.

The cost for adjusted front footage method of assessment shall be based on the quotient of the assessable cost divided by the total assessable frontage receiving special benefit from the improvement. To determine the assessable frontage, all properties, including governmental agencies, shall have their frontages included in such calculation.

The actual physical dimensions of a parcel abutting an improvement (i.e., street, sewer, water, etc.) shall not be construed as the frontage utilized to calculate the assessment for a particular parcel. Rather, an adjusted front footage will be determined. The purpose of this method is to equalize assessment calculations for lots of similar size. The following procedures will apply when calculating adjusted front footage. The appropriate procedure will be determined by the layout of the lot.

(3) *Interior rectangular lots.* The adjusted front footage shall be equal to the dimension of the front of the lot. The front of the lot shall be defined based on the current City of Dell Rapids Zoning Ordinance at the time of the assessment.

(4) *Rectangular corner lots.* The adjusted front footage shall be equal to the dimension of the shortest side lot and half the length of the longest side lot.

(5) *Interior irregularly shaped lots.* The adjusted front footage shall be equal to the dimension of the front of the lot. The front of the lot shall be defined based on the current City of Dell Rapids Zoning Ordinance at the time of the assessment.

(6) *Irregularly shaped corner lots.* The adjusted front footage shall be equal to the dimension of the shortest side lot and half the length of the longest side lot.

(7) *Double Frontage Lots.* A double frontage lot is defined as a lot that has frontage on two non-adjoining sides. The adjusted front footage shall be equal to the dimension of the front of the lot. The front of the lot shall be defined based on the current City of Dell Rapids Zoning Ordinances at the time of the assessment.

(8) *Corner lots which abut three streets.* The adjusted front footage for a given type of surface improvement shall be calculated on the same basis as if such lot was a corner lot abutting the improvement on two sides only.

(9) *Large parcels.* For large platted or unplatted lots, the lot shall be assessed based on the type of large lot as defined above with the front of the lot being defined based on the current City of Dell Rapids Zoning Ordinance at the time of assessment. For the large lots that abut an improvement that assessments are being applied but is not considered the front of the lot as defined in the City of Dell Rapids Zoning Ordinances at the time of assessment, the lot will have a deferred assessment applied against any future lots which may be subdivided from the larger parcel and the future lots subdivided would meet the definition as the front of the lot for the assessed improvements in the future. The City shall determine the potential for large lots to be subject to a deferred assessment.

19.5-9.3-2. Area Method of Assessment.

The area method of assessment shall be based on the number of square feet or acres within the boundaries of the appropriate property lines of the areas receiving special benefit from the project. The assessment rate (i.e., cost per square foot) shall be calculated by dividing the total assessable cost by the total assessable area. On large lots, the City Engineer may determine that only a portion of the lot(s) receives the special benefit and may select a lot depth for the calculations equal to the special benefit received.

All properties included in the area receiving special benefit, including governmental agencies, shall be assessable. The following items may not be included in area calculations: public right- of-way, natural waterways, swamps, lakes, and other wetlands designated by the State of South Dakota or the City. The City Engineer will make a recommendation on the boundaries or parameters of the area receiving special benefit.

19.5-9.3-3. Per Lot Method of Assessment.

The per lot method of assessment shall be based on equal assessment of all lots within the area receiving special benefit. The assessment per lot shall be the quotient of the assessable cost divided by the total assessable lots or parcels receiving special benefit from the improvement. For the purpose of determining the lots or parcels, all parcels, including governmental agencies, shall be included in such calculations.

19.5-9.3-4. Per Each Method of Assessment.

The per each method of assessment shall be utilized when a property receives the sole special benefit of a specific improvement (example: a water service).

19.5-9.3-5. Zone Formula.

Assessments may be levied by using the "zone" formula when benefits are equal and uniform among all of the parcels of the property within each zone. A "zone" or "zone and termini" system is one in which the improvement district is divided into zones, with a decrease of the percentage of the cost of the improvement assigned to each of the zones as the distance from the improvement increases.

19.5-9.3-6. Fair Market Value Before and After Improvements.

The assessment may be done according to the proportionate increase in the fair market value of the property after the installation of the improvements.

19.5-9.3-7. Use of Improvement.

The assessment may be done based on the nature and extent of the owner's use of the improvement. The assessment is distinguished from any fees the owner may pay for the continuing use of the service provided by the improvement. The assessment is the charge for the improvement of the property and when determining whether a charge for connecting with a municipal water or other service is a fee or an assessment.

19.5-9.3-8. Block-by-Block.

The "block-by-block" method of apportionment is the assessment of individual properties in each "block" of property of a portion of the cost of acquiring the land in that block. The size and configuration of a "block" is determined on a case-by-case basis, depending on the existing facts and circumstances.

SECTION 19.5-9.4. ASSESSMENT DETERMINATION & STANDARDS FOR IMPROVEMENT.

The following shall be used for determinations and standards for improvement.

19.5-9.4.1. Street and Curb and Gutter Improvements.

(A) *New Street and Curb and Gutter Construction:* All new street construction (including gravel, asphalt materials, concrete surfacing, and curb and gutter) will be assessed 100% to the benefited properties. Street and curb and gutter improvements will normally be assessed by the adjusted front foot method, however other methods may be utilized if conditions warrant. Cost of construction of streets and curb and gutter shall be assessed based on the City of Dell Rapids Engineering Design Standards for residential streets at the time of the assessment. Oversizing costs for streets that exceed the residential street design standards in effect at the time of the assessment may be paid by: City funds, State funds, larger Assessment rates to benefitted properties, general obligation funds, or any other method or combination of methods authorized by the City.

(B) *Reconstruction of Streets and Curb and Gutter:* Street reconstruction will be assessed 0% to the benefited properties. For reconstruction of existing paved streets without existing curb and gutter meeting current design standards to an urban section with new curb & gutter installation, the curb and gutter shall be assessed 100% to the benefitting property owners.

(C) *Overlays:* Overlays will be assessed 0% to the benefited property owners.

(D) *Gravel Streets:* Existing gravel streets improved to a paved (asphalt material or concrete) street shall be assessed 100% to the benefiting properties for construction of surfacing and installation of curb and gutter as if it were new construction.

(E) *Driveways and Driveway Approaches:* All driveways and driveway approaches constructed with new development shall be assessed at 100% to the benefitting property owners. Existing driveways and driveway approaches that are reconstructed will be assessed 100% to the benefitting property owner. The driveway approach shall consist of the area from the back of curb to the front edge of the sidewalk and up to 5' beyond the sidewalk, or, to the property line if there is no sidewalk.

(F) *Maintenance:* All maintenance on existing streets will not be assessed to the benefitting property owners. This shall be paid for in accordance with the City of Dell Rapids policy on maintenance fees. Maintenance shall include seal coating, slurry sealing, fog sealing, crack sealing, patching, joint repair and other methods of maintenance as determined by the City.

19.5-9.4.2. Sidewalks and Trails.

(A) *Sidewalk and Trails in New Development:* All sidewalk and trails installed in newly developed areas shall be paid 100% by the benefitting property owner. Notwithstanding, should the City install the sidewalk, the sidewalk improvements will normally be assessed against the owner by the front foot method; however, other methods may be utilized if conditions warrant. Cost of construction of sidewalks and trails shall be assessed based on the City of Dell Rapids Engineering Design Standards for residential streets at the time of the assessment.

(B) *New Sidewalk and Trails in Previously Developed areas or Sidewalk Reconstruction:* All new sidewalk installed in previously developed areas shall be assessed 100% to the benefitting property owners abutting the improvements. For reconstruction of existing sidewalk and trails not meeting current design standards, the sidewalk and trails shall be assessed 100% to the benefitting property owners abutting the improvements.

(C) *Overwidth Sidewalk and Trails:* For sidewalk or trails installed at a width wider than the minimum width for sidewalk based on the City of Dell Rapids Engineering Design Standards for residential streets, the benefitting property owners shall pay for the equivalent width as stated in the current City of Dell Rapids Engineering Design Standards for residential streets at the time of the assessment. The remaining costs for wider sidewalk or trail construction shall be unassessed and funded through the City.

19.5-9.4.3. Storm Sewer Improvements.

Storm sewer improvements shall include the storm sewer piping, outlets, structures, pumping stations, stormwater management ponds, ditches, culverts, and all other appurtenances required for the collection and management of stormwater.

(A) *New Construction:* For new construction, all new storm sewer installed may be assessed 100% to the benefitted properties. Storm sewer improvements will normally be assessed using the area method; however, other methods may be utilized if conditions warrant it. If new storm sewer to be installed is receiving drainage from areas outside of the assessed area causing storm sewer to be oversized, the oversizing of the storm sewer shall be unassessed and funded through means other than assessment to the abutting property owners. The area of drainage from the assessed area and the required storm sewer sizing will be used to determine the need for oversizing of the storm sewer.

(B) *Reconstruction:* Storm sewer reconstruction projects may involve improvements that upsize or construct a new stormwater infrastructure system in areas that have inadequate drainage or developed areas without existing storm sewer infrastructure. With reconstruction projects that include work other than replacement of the existing storm sewer infrastructure system, the City shall determine the benefit to the adjacent property owners and the percentage of the reconstruction to be assessed depending on the scope and need of the improvement.

(C) *Assessment to areas beyond the adjacent area:* The cost for upsizing storm sewer systems to provide adequate service and capacity for areas beyond the adjacent area, the benefitting properties will be assessed at the estimate cost of an equivalent storm sewer system that would be sufficient for the drainage area of the assessment area.

19.5-9.4.4 Sanitary Sewer Improvements.

Sanitary sewer improvements shall include the sanitary sewer piping, sanitary sewer service lines, manholes, lift stations, and all other appurtenances required for the collection and management of wastewater.

(A) *New Construction:* All new sanitary sewer mains and sewer service connections shall be assessed 100% to the benefited properties. Sanitary sewer main improvements will normally be assessed by the adjusted front footage basis; however, other methods may be utilized if conditions warrant it. Properties with existing City sanitary sewer services, but which do not have mainline sewer adjacent to, across, or, up to their property lines, will not be assessed as they are considered to already be receiving the benefit of the service connection.

(B) *Oversized mains or upsizing:* When new oversized mains or trunk lines (larger than 8") or existing sanitary sewer mains are required to be upsized to provide adequate service and capacity for areas beyond the adjacent area, the benefitting properties will be assessed at the estimated cost of an equivalent 8" with all oversizing costs to remain unassessed and funding through the City. The City shall dictate the location and size of oversized mains. Oversizing costs shall be determined by the mean price of pipe and appurtenances at the time of construction.

(C) *Grinder Pumps:* Where, in the opinion of the engineers, it is necessary to install an individual grinder pump lifting device for purposes of securing adequate flow from a property to the adjacent public sewer service, a property owner must provide the necessary grinder pump and related lines to transmit sewage to the adjacent public sewer system. The pump must be approved by the City Engineer and installation of said grinder pump lifting device shall be done at the property owner's expense. The lifting device and discharge line shall be owned, maintained, and operated at the expense of the property owner unless the City Council determines that it is in the best interest of the City to own, operate or maintain these systems.

19.5-9.4.5 Water Main Improvements.

Water main improvements shall include the water main piping, water service lines, fire hydrants, valves, fittings, and all other appurtenances required for the water distribution system.

(A) *New Construction:* All new water main lines and water services connections will be assessed 100% to the benefitting properties. Water main improvements will normally be assessed by the adjust front footage basis: however, other methods may be utilized if conditions warrant it. Properties which have existing City water service, but do not have mainline water mains adjacent to, across, or up to the property lines, will not be assessed as they are considered to already be receiving the benefit of the service connection.

(B) *Oversized or looping:* When new oversized mains or trunk lines (larger than 8") or existing water mains are required to be upsized to provide adequate service and capacity for areas beyond the adjacent area, the benefitting properties will be assessed at the estimated cost of an equivalent 8" with all oversizing costs to remain unassessed and funding through the City. The City shall dictate the location and size of oversized mains. Oversizing costs shall be determined by the mean price of pipe and appurtenances at the time of construction.

19.5-9.4.6. Erosion Control Items and Seeding/Turf Establishment Improvements.

Erosion control items and all labor and materials associated with seeding and turf establishment may be assessed 100% to benefitting property owners.

SECTION 19.5-9.5. SPECIAL ASSESSMENT PROCEDURES.

The following is the general procedure for special assessments that the City shall follow for all local improvements projects which the City determines shall be assessed to benefitting property owners in accordance with the South Dakota Codified Laws Chapter 9-43. (SDCL 9-43).

19.5-9.5.1. Inititation Of Local Improvements.

(A) *By Petition:* A public improvement project may be initiated by benefitting property owners to be assessed.

(B) *By City:* The City may initiate public improvement projects as it determines necessary with approval of the City Council.

19.5-9.5.2. Proposed Resolution of Necessity.

The City shall develop a proposed resolution of necessity as defined in the South Dakota Codified Laws Chapter 9-43. The proposed resolution of necessity shall include the general nature of the proposed improvement, the material to be used, an estimate of the total cost or cost per linear foot, a description of the classes of lots to be assessed and of the method of apportioning the special benefits to the lots, if applicable. The City may define which portions of the proposed improvement costs that will be assessed to special benefitted properties and which portions may be covered partially or in full by the City or through the City from various funding sources, if any. The City may define which methods of determining special benefit will be used as determined to be the most consistent, fair, and equitable treatment to each of the property owners sharing in the special benefit of the street and utility improvements to be assessed. The City proposed resolution shall state that the details, plans, and specifications are available for review during regular office hours at the City finance office. (SDCL 9-43-82).

19.5-9.5.3. Notice of Hearing on Proposed Resolution of Necessity.

The City will publish a notice of hearing on the proposed resolution of necessity once, not less than ten (I 0) nor more than twenty (20) days before the hearing on the resolution of necessity. The notice of hearing shall contain the time and place of the hearing and shall state that the City will consider any objections to the proposed resolution by owners of the affected properties.

The City shall provide a mailing, by first class or certified mail to each of the affected property owners as shown by the records kept by the County Director of Equalization, not less than ten (10) days nor more than twenty (20) days before the hearing. The mailing shall include a copy of the notice of hearing and the proposed resolution of necessity to each property owner of the affected properties.

At the hearing, the City will consider any objections to the proposed resolution. The City reserves the right to adopt the proposed resolution with or without amendments to the original resolution. If the City amends any portion of the resolution affecting the properties not included in the original proposal, the City will give notice and the opportunity to be heard to the affected property owner per the South Dakota Codified Laws provided by Chapter 9-43-82 to Chapter 9-43-84.

After adoption of the resolution of necessity by the City, the City will publish the adopted resolution of necessity. The adopted resolution of necessity becomes effective twenty (20) days after publication unless brought to a vote by referendum, suspended by a resolution of the Council, or a petition is filed with the City finance officer that is signed by at least fifty-five percent (55%) of the affected property owners to be assessed. The City has the ability to deny the petition through a two-thirds vote by the City Council.

If the resolution of necessity becomes effective after the conditions listed above are met, the City shall move forward with contracting for the proposed improvements. (SDCL 9-43-82 through 9-43-86).

19.5-9.5.4. Notice of Hearing on Assessment Roll.

Any contract for the improvements shall contain a suspension and/or termination provision providing for termination at no cost to the City if the special assessment roll is appealed to Circuit Court. After the contract is signed, the City shall file an assessment roll with the City finance officer. The assessment roll shall include the legal description of each parcel or property, the property owner's name as shown by the assessment roll of the County's Director of Equalization, and the amount of assessment against each lot or parcel that is to be assessed as part of the proposed improvement. The assessment roll shall contain information on the installments (if any), rates of interest on installations and the statement on due dates of installments (if any). The statement shall include that any number of the installments may be paid without interest at the office of the finance officer within thirty (30) days from the date of approval of the roll as per the South Dakota Codified Laws Chapter 9-43.

Upon filing of the assessment roll in the finance office, the City will publish a notice of hearing on the assessment roll, not less than ten (10) days nor more than twenty (20) days before the hearing. the notice of hearing shall disclose the nature of improvements for which the assessment is to be levied and shall contain the time and place of the hearing. It shall also state that the assessment roll is open for public inspection at the office of the finance officer and shall refer to the special assessment role for further particulars.

The City shall provide a mailing, by first class or certified mail to each of the affected property owners as shown by the records kept by the County Director of Equalization, with the mailing being provided not less than ten (10) days nor more than twenty (20) days before the hearing. The mailing shall include a copy of the assessment roll for each of the affected property owners to be assessed.

At the hearing, the City will consider the assessment roll and any objections thereto, and determine whether to approve, equalize, or reject the assessment roll. After the assessment roll is adopted by the City, the City shall publish the resolution which will become effective twenty (20) days after the date of publication. The City will publish the plan for which the assessment roll and installments shall be paid and follow the timeline for appeal as stated in the South Dakota
Codified Laws Chapter 9-43.

If the Council equalizes or amends the assessment roll, a list of all items of assessment changed or amended shall be published and notice and hearing shall be held as provided in SDCL § 9-43-90. After any corrections in the assessment roll have been made, the Council by resolution shall approve and levy the assessment, describing the assessment and the local improvement, and providing the dates of the official approval of the assessment roll. The resolution approving the assessment roll shall also state under which plan the assessment and installments thereof shall be paid as provided by SDCL § 9-43-102.

The City finance officer will prepare a special record containing the following information as stated in the South Dakota Codified Laws Chapter 9-43-98:

1. A record of all special assessments;
2. The consecutive number of the item;
3. The date the assessment is due;
4. The name of the property owner as provided by the director of equalization;
5. The legal description of the property;
6. The amount assessed against each lot;
7. The character of the improvement for which the assessment is made;
8. The date of payment of each assessment or installment that is paid to the municipality.

The City finance officer will include a suitable index to the real property against which special assessments have been levied.

The City shall immediately mail to each of the property owners assessed by the improvement notice. The notice shall specify the amount of the assessment, the number of installments, the date of approval of the assessment roll, and a statement that any number of the installments may be paid without interest at the office of the finance officer within thirty (30) days from the date of the approval roll. The City will define the dates in the adopted assessment roll resolution.

Any appeal of a special assessment roll must be made within twenty (20) days after publication of a notice that the resolution confirming the special assessment roll has been adopted and as otherwise set forth by SDCL 9-43-96. Should the special assessment roll be appealed, the City Council at its discretion may move forward with the proposed improvements or may suspend the project until after any challenge is complete and appeal time has been exhausted. (SDCL 9-43-87 through 9-43-99).

19.5-9.5.5. Payment Options.

The City shall define by resolution, or ordinance, per the South Dakota Codified Laws, Chapter 9-43, whether the special assessments are payable under Plan One (Collection by county treasurer) or Plan Two (collection by municipal finance officer) and comply with South Dakota Codified Laws 9-43 as to delivery to the County Auditor. The City will follow all South Dakota Codified Laws on payments, interest, dates of effective interest and payments, notices of delinquent installments and other related payments of assessments. (SDCL 9-43).

19.5-9.5.6. Deferred Assessments.

This special assessment ordinance applies to any project which includes properties subject to special benefit by local improvements outside of the City limits as determined by the City. The special benefit and cost accruing to the land outside of the City limits shall be included in the original public hearing. The City shall assume the temporary responsibility for payment of the allocable cost of such property or land. The City shall maintain a register on that property outside

the City limits, and when the property is annexed in the City limits, the City shall file and certify the assessment to the County Auditor for collection after the annexation occurs.

A deferred assessment may also be applied against a large parcel that has the ability to be subdivided in the future and the frontage of the new lot, as defined in the City of Dell Rapids Zoning Ordinances at the time of assessment, abuts an improvement that has had a special assessment applied. The City shall decide at the time of assessment of the feasibility of a large parcel to be subdivided and meet the specified deferred assessment for the frontage determined. The special benefit and cost accruing to the frontage shall be included in the original public hearing. The City shall assume the temporary responsibility for payment of the allocable cost of such properties. The City shall maintain a register on that property, and if the property is subdivided into small parcels in the future, the City shall file and certify the assessment to the County Auditor for collection after the plat is filed with the County. (SDCL 9-43-78)

(Ord No. 913, § 1, 7-22).

SECTIONS 19.5-10 - 19.5-15. RESERVED

ARTICLE II. TAX LEVY FOR COUNTY FIRE PROTECTION*

***Editor's note--**Ord. No. 342, §§ 1, 2, adopted Sept. 5, 1978, did not amend the Code but is included herein at the direction of the city. The editor has designated the provisions of said ordinance as Art. II, §§ 19.5-16, 19.5-17, at his discretion.

Cross reference(s)--Fire prevention and protection, Ch. 10.

SECTION 19.5-16. COUNTY AUTHORIZED TO ASSESS TAX

Pursuant to SDCL 34-31-3, pertaining to county protection and fire-fighting equipment, the Board of County Commissioners of Minnehaha County, South Dakota, is hereby authorized to include the taxable property located within the city limits of the City of Dell Rapids, South Dakota, with all other taxable property within Minnehaha County, South Dakota, for the purpose of levying a tax, not to exceed one mill, upon all such property for county fire protection service, as specified by SDCL ch. 34-31.

(Ord. No. 342, § 1, 9-5-78)

SECTION 19.5-17. COUNTY REQUIRED TO OBTAIN ANNUAL CITY APPROVAL

The authority herein granted to the board of county commissioners, Minnehaha County, South Dakota, is a one-time grant of authority to be used the one time in the upcoming budget discussions and decisions by said board of county commissioners, wherein the different mill levies will be set and a budget adopted for the coming year. This grant of authority is not a continuing grant for subsequent years but requires adoption of a further ordinance or ordinances for subsequent years.

(Ord. No. 342, § 2, 9-5-78)

SECTIONS 19.5-18 – 19.5-23. RESERVED

ARTICLE III. CITY SALES TAX*

***Cross reference(s)--**Licenses, Ch. 13; peddlers, Ch.16.

SECTION 19.5-24. PURPOSE

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

(Ord. No. 349, § 1, 4-17-79)

SECTION 19.5-25. EFFECTIVE DATE

From and after the first day of May, 1989, there is hereby imposed as a municipal retail occupational sales and service tax upon the privilege of engaging in business a tax of two (2) per cent on the gross receipts of all persons engaged in the business within the jurisdiction of the city who are subject to the South Dakota Retail Sales and Service Tax, SDCL ch. 10-45, and acts amendatory thereto.

(Ord. No. 349, § 2, 4-17-79; Ord. No. 447, 3-21-89)

SECTION 19.5-26. 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 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. No. 349, § 3, 4-17-79)

SECTION 19.5-27. EXEMPTIONS FROM TAXATION

Tax will not be applied to items specifically exempt under SDCL 10-52-2.6, 10-52-11 and 10-52-12. Items currently exempted from municipal tax include: Farm Machinery and Irrigation Equipment, Parts or Repairs for Farm Machinery, Agricultural Animal Health Products and Medicine, Transportation Service, Collection and Disposal of Solid Waste, Veterinarian and Animal Specialty Services, and Air Transportation. Items exempt from tax will continue to conform to changes with state law.

(Ord. 653, § 1, 8-18-03; Ord. No. 683, § 1, 10-3-05)

SECTION 19.5-28. USE TAX

In addition, there is hereby imposed an excise tax on the privilege of the use, storage and consumption within the jurisdiction of the city of tangible personal property purchased from and after the first day of July, 1979, at the same rate as the municipal sales and service tax, upon all transactions or use, storage and consumption which are subject to the Use Tax Act of 1939, SDCL ch. 10-46, and acts amendatory thereto.

(Ord. No. 349, § 5, 4-17-79)

SECTION 19.5-29. INTERPRETATION

It is declared to be the intention of this article 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 Sales and Service Tax, SDCL ch. 10-45, and acts amendatory thereto, and the Use Tax Act of 1939, SDCL ch. 10-46, and acts amendatory thereto, and that this shall be considered a similar tax except for the rate thereof to that tax.

(Ord. No. 349, § 6, 4-17-79)

SECTION 19.5-30. PENALTY

Any person failing or refusing to make reports on payments prescribed by this article and the rules and regulations relating to the ascertainment and collection of the tax herein levied, shall be guilty

of a misdemeanor and upon conviction shall be fined not more than one hundred dollars ($100.00) or imprisoned in the city jail for thirty (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. No. 349, § 7, 4-17-79)

SECTION 19.5-31. NON-AD VALOREM TAX ON LODGING, ALCOHOLIC BEVERAGES, PREPARED FOOD AND ADMISSIONS

From and after the first day of January, 2002, there is hereby imposed an additional municipal non-ad valorem tax at the rate of one (1) per cent upon the gross receipts of all leases or rentals of hotel, motel or other lodging accommodations within the city for periods of less than twenty-eight (28) consecutive days, on sales of alcoholic beverages as defined in SDCL 35-1-1, on establishments where the public is invited to eat, dine or purchase and carry out prepared food for immediate consumption, and on ticket sales on admissions to places of amusement, athletic or cultural events. All revenues received from the collection of the tax imposed by this section shall be used only for the purpose of land acquisition, architectural fees, construction costs, payments for civic center, auditorium or athletic facility buildings, including the maintenance, staffing and operation of such facilities and the promotion and advertising of the city, its facilities, attractions and activities. Such taxes shall conform in all respects to the state sales and use tax on such items with the exception of the rate and shall be collected and administered in the manner provided by this chapter and the laws of the State of South Dakota.

(Ord. No. 617, § 1, 4-16-01; Ord. No. 622, § 1, 8-6-01)

SECTIONS 19.5-32 – 19.5-45. RESERVED

ARTICLE IV. CONTRACTORS' EXCISE TAX*

***Editor's note--**Ord. No. 350, §§ 1--6, adopted July 3, 1979, amended the Code by addition of provisions designated by the city as Ch. 24, for purposes of classification, the editor has, at the city's direction, redesignated said provisions as Art. IV, §§ 19.5-46--19.5-51.

Cross reference(s)--Buildings and building regulations Ch. 7; licenses, Ch. 13; streets, sidewalks and other public places, Ch. 19; subdivisions, App. D.

SECTION 19.5-46. PURPOSE

The purpose of this article is to provide additional needed revenue for the city by imposing a municipal gross receipts tax on realty improvement contracts, pursuant to the powers granted to

the municipality by the state of South Dakota by SDCL ch. 10-52, Uniform Municipal Non-Ad Valorem Tax Law, acts amendatory thereto, and SDCL 10-46A-11.

(Ord. No. 350, § 1, 7-3-79)

SECTION 19.5-47. EFFECTIVE DATE

Commencing with the first calendar quarter following the effective date of this article, there is hereby imposed as a municipal gross receipts tax, a tax of one-half per cent (0.5%) on the gross receipts of all prime contractors and other persons engaged in realty improvement contracts within the jurisdiction of the City of Dell Rapids, Minnehaha County, South Dakota, who are subject to the Realty Improvement Contractors' Excise Tax, SDCL ch. 10-46A, and acts amendatory thereto.

(Ord. No. 350, § 2, 7-3-79)

SECTION 19.5-48. COLLECTION

Such tax is levied pursuant to authorization granted by SDCL ch. 10-52, acts amendatory thereto, and SDCL ch. 10-46A and shall be collected by the South Dakota Department of Revenue in accordance with the same rules and regulations applicable to the Realty Improvement Contract Gross Receipts Tax and under such additional rules and regulations as the Secretary of Revenue of the State of South Dakota shall lawfully prescribe.

(Ord. No. 350, § 3, 7-3-79)

SECTION 19.5-49. EXEMPTIONS

The gross receipts of subcontractors or retailers from sales of materials or services which are to be used in realty improvement contracts subject to the tax imposed by this municipality upon retail sales are hereby exempt from such retail sales and use taxes, providing a state exemption certificate is presented to the supplier at the time of purchase.

(Ord. No. 350, § 4, 7-3-79)

SECTION 19.5-50. INTERPRETATION

It is declared to be the intention of this article and the taxes levied hereunder that the same shall be interpreted and construed in the same manner as all sections of the Realty Improvement Contractors' Excise Tax, SDCL ch. 10-46A, and acts amendatory thereto, and that this tax shall be considered a similar tax except for the rate thereof to that tax.

(Ord. No. 350, § 5, 7-3-79)

SECTION 19.5-51. PENALTY

Any person failing or refusing to make reports or payments prescribed by this article and the rules and regulations relating to the ascertainment and collection of the tax herein levied, shall be fined not more than one hundred dollars ($100.00). In addition, all such collection remedies authorized by SDCL ch. 10-46A, and acts amendatory thereto, are hereby authorized for the collection of these excise taxes by the department of revenue.

(Ord. No. 350, § 6, 7-3-79)

SECTIONS 19.5-52 – 19.5-60. RESERVED

Editor's note--Ord. No. 593, §§ 1--7, adopted March 20, 2000, amended the Code by addition of provisions numbered as Art. V, §§ 19.5-61--19.5-67. As a result, the numbers between Art. V §§ 51 and 61 have been deemed reserved at the city's direction.

ARTICLE V. URBAN AND RURAL SERVICE DISTRICTS

SECTION 19.5-61. SERVICE DISTRICTS ESTABLISHED

Pursuant to the authority granted in Chapter 9-21A of South Dakota Codified Laws, the City of Dell Rapids, South Dakota, is hereby divided in area into an Urban Service District and a Rural Service District constituting separate taxing districts for the purpose of levying all municipal ad valorem property taxes, except those levied for the payment of bonds.

(Ord. No. 593, 3-20-00)

SECTION 19.5-62. RURAL SERVICE DISTRICT – CRITERIA FOR LANDS INCLUDED

The Rural Service District shall include only such platted or unplatted lands as in the judgment of the City Council that are rural in character, are used or usable for agriculture, and are not developed for commercial, industrial, or urban residential purposes. The Rural Service District may include lands which are not contiguous to one another.

(Ord. No. 593, 3-20-00)

SECTION 19.5-63. RURAL SERVICE DISTRICT

The rural service district shall consist of those platted or unplatted lands described in a Resolution entitled, "Lands Included in the Rural Service District", all of which lands are rural in character, are used or usable for agriculture, and are not developed for commercial, industrial, or urban residential purposes.

Allowable agricultural uses include, but are not limited to, livestock grazing and feeding, hunting/trapping and the use of firearms, row crop farming, alfalfa/clover farming, and manure spreading and stockpiling. Allowable maintenance activities for these agricultural uses include, but are not limited to, subsurface tile work, water way cleaning, and drainage improvements.

The rural service district shall also include lands outside the municipality, if annexed into the corporate limits, which are rural in character, are used or usable for agriculture, and are not developed for commercial, industrial or urban residential purposes.

(Ord. No. 593, 3-20-00; Ord. No. 784, § 1, 12-16-13, Ord. No. 925, 4-3-23)

SECTION 19.5-64. URBAN SERVICES DISTRICT – LANDS INCLUDED

The Urban Service District shall include all lands within the boundaries of the City of Dell Rapids which are not included in the Rural Service District.

(Ord. No. 593, 3-20-00)

SECTION 19.5-65. AGRICULTURAL LAND ANNEXED – LIMITATION ON MILL LEAVY AND ASSESSSED VALUE

The mill levy and assessed value on the agricultural land annexed shall not exceed the average mill levy and average assessed value on unannexed agricultural land in adjoining townships in the county so long as the annexed land remains rural property and is included in the Rural Service District.

(Ord. No. 593, 3-20-00)

SECTION 19.5-66. PLATTING OR CONSTRUCTION IN RURAL DISTRICT – REPORT – TRANSFER TO URBAN DISTRICT

Whenever any parcel of land included within the Rural Service District:

(a) Is further platted in whole or in part; or

(b) Is the subject of an application for a permit for the construction of a commercial, industrial, or urban residential development or improvement to be situated on such parcel or any part thereof; or

(c) Otherwise fails to meet the criteria as set forth in Section 19.5-63 of this ordinance,

the board or officer of the city approving such plat or building permit or having knowledge of the change in circumstances shall report the same to the City Council which shall make and enter an order transferring such parcel from the Rural Service District to the Urban Service District.

(Ord. No. 593, 3-20-00)

SECTION 19.5-67. FILING ORDINANCE AMENDMENT OR ORDER WITH COUNTY AUDITOR

The City Finance Officer is hereby directed to file with the appropriate County Auditor a certified copy of this ordinance, every amendment thereof and every order adopted or entered pursuant to this ordinance.

(Ord. No. 593, 3-20-00)

EXHIBIT "A"

LANDS WITHIN THE CITY OF DELL RAPIDS, SOUTH DAKOTA, INCLUDED IN THE RURAL SERVICE DISTRICT

1. Tracts 1 and 2 of Everist Addition in the Southeast Quarter of the Northwest Quarter (SE ¼NW¼) of Section 16, and in Lot 16 of Kenefick's Subdivision of the E½ of Section 16, all in Township 104 North, Range 49 West of the 5th P.M., Minnehaha County, South Dakota, according to the recorded plat thereof; and the Existing Road Right-of-Way shown on said plat, located south and east and adjacent to said Tracts 1 and 2; and the West 100.00 feet of the East 239.56 feet of the South 462.31 feet of the Southeast Quarter of the Northwest Quarter (SE¼NW¼) of said Section 16, as measured along the East and South lines of said Southeast Quarter of the Northwest Quarter (SE¼NW¼); and the remaining portion of the Existing 66 foot wide Road Right-of-Way located within the South 66 feet of the South Half of the Northwest Quarter (S½NW¼), of said Section 16, all totaling approximately 10.35 acres, which area is contiguous to at least an additional 70 acres of land that is currently owned by the same owner and is classified as rural in character and used or usable for agricultural purposes.

(Ord. No. 593, 3-20-00)

Editor's note—Exhibit "A" of Ord. No. 593, adopted March 20, 2000, was not originally included in the prior codification. It has been added pursuant to the text of Art. V at the city's direction.

CHAPTER 20 – TRAFFIC AND MOTOR VEHICLES*

***Cross reference(s)--**Placing handbills on vehicles prohibited, § 3-19; miscellaneous offenses and provisions, Ch. 15; vehicles and traffic in public parks, § 15.5-45 et seq.; police generally, Ch. 17; railroads, Ch. 18; streets, sidewalks and other public places, Ch. 19.

State law reference(s)--Regulation of traffic, SDCL 9-30-4, 9-31-1 et seq.; motor vehicles, SDCL tit. 32.

Article I. In General

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Section 20-2. Ordinances saved from repeal.
Section 20-3. Driver's license required.
Section 20-4. Age of operator.
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Section 20-6. Clinging to moving vehicle.
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Section 20-8. Coasters, roller skates and similar devices.
Section 20-9. Riding on outside of vehicles.
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Article II. Enforcement and Obedience

Section 20-24. Duty of police department.
Section 20-25. Police direct traffic.

Section 20-26. Obedience to police.
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Section 20-28. Public employees to obey traffic regulations.
Section 20-29. Exemptions to authorized emergency vehicles.
Section 20-30. Application to workmen, equipment.
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Article III. Procedures Upon Arrest

Section 20-42. Manner of arrest.
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ARTICLE I. IN GENERAL

SECTION 20-1. IN GENERAL

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them:

Authorized emergency vehicle. Vehicles of the fire department (fire patrol), police vehicles and such ambulances and emergency vehicles of municipal department or public service corporations as are designated or authorized by the chief of police.

Business district. The territory contiguous to a highway when fifty (50) per cent or more of the frontage thereon for a distance of three hundred (300) feet or more is occupied by buildings used for business.

Crosswalk. That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway; or any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

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

Curb loading zone. The space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers or materials.

Department. The police department of the city.

Intersection. The area embraced within the prolongation of the lateral curb lines or, if none, then of the lateral boundary lines of two (2) or more highways which join one another at an angle, whether or not one such highway crosses the other; but such area, in the case of the point where an alley and a street meet shall not be deemed an intersection.

Laned street. A street, the roadway of which is divided into two (2) or more clearly marked lanes for vehicular traffic.

Motorcycle. Every motor vehicle designed to travel on not more than three (3) wheels in contact with the ground, except any such vehicle as may be included within the term "tractor."

Motor vehicle. Every vehicle which is self-propelled.

Official traffic signals. All signals, not inconsistent with this chapter, placed or erected by authority of a public body or official having jurisdiction, for the purpose of directing, warning or regulating traffic.

Official traffic signs. All signs and markings, other than signals, not inconsistent with this chapter, placed or erected by a public body or official having jurisdiction, for the purpose of guiding, directing, warning or regulating traffic.

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

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

Parkway. The paved or unpaved strip of land paralleling the roadway and located between the roadway and sidewalk area.

Pedestrian. Any person afoot.

Police officer. Every officer of the city police department or any officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

Private road or driveway. Every road or driveway not open to the use of the public for vehicular travel.

Residence district. The territory contiguous to a highway not comprising a business district when the frontage on such highway for a distance of three hundred (300) feet or more is mainly occupied by dwellings or by dwellings and buildings in use for business.

Right-of-way. The right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed and proximity as to give rise to danger of collision unless one grants precedence to the other.

Roadway. That portion of a highway improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two (2) or more separate roadways, the term "roadway" shall refer to any such roadway separately but not to all such roadways collectively.

Sidewalk. That portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for use of pedestrians.

Street or highway. The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public as a matter of right for purposes of vehicular travel.

Traffic. Pedestrians, ridden animals, herded animals and vehicles while using any street for purpose of travel.

Traffic-control signal. Any device using colored lights, or words, or any combination thereof, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and to proceed.

Vehicle. Every device in, upon, or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks; provided that for the purposes of this chapter, a bicycle or a ridden animal shall be deemed a vehicle.

State law reference(s)--Traffic definitions, SDCL 32-14-1.

SECTION 20-2. ORDINANCES SAVED FROM REPEAL

Nothing contained in this Code of Ordinances, nor in the ordinance adopting this Code, shall be construed to repeal or otherwise affect in any manner any ordinance designating one-way streets or alleys, through streets, stop or yield intersections, intersections at which traffic-control signals are to be installed, areas or spaces in which the parking of vehicles is prohibited or limited, intersections at which the turning of vehicles is prohibited, restricted or regulated, speed limits or any other ordinance regulating traffic on specific streets, alleys or other public ways in the city or portions thereof or in specific areas of the city and all such ordinances are hereby saved from repeal and recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

SECTION 20-3. DRIVER'S LICENSE REQUIRED

It shall be unlawful for any person who is a resident of this state to drive or operate upon any of the streets or highways within the city any motor vehicle without first having secured and having in his possession a license so to do issued by the state.

State law reference(s)--Drivers' licenses and permits, SDCL ch. 32-12.

SECTION 20-4. AGE OF OPERATOR

No person under the age of sixteen (16) years shall operate a motor vehicle upon the streets of the city unless such person is accompanied by the owner of the motor vehicle being operated, or is the holder of a driving permit issued by the state for school or work purposes.

State law reference(s)--Age of operator, SDCL 32-12-29.

SECTION 20-5. LICENSE PLATES

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

State law reference(s)--Annual registration and license plates, SDCL ch. 32-5.

SECTION 20-6. CLINGING TO MOVING VEHICLE

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

SECTION 20-7. BOARDING OR ALIGHTING FROM VEHICLE

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

SECTION 20-8. COASTERS, ROLLER SKATES AND SIMILAR DEVICES

No person on roller skates or riding in or by means of any coaster or toy vehicle or similar device shall go upon any roadway except while crossing a street or a sidewalk and when so crossing such person shall be granted all the rights and shall be subject to all the duties applicable to pedestrians. This section shall not apply on any street while set aside as a play street.

SECTION 20-9. RIDING ON OUTSIDE OF VEHICLES

No person shall ride on any vehicle upon any portion thereof not designated or intended for the use of passengers. This provision shall not apply to persons riding within truck bodies in space intended for merchandise.

SECTION 20-10. OPENING DOORS INTO TRAFFIC

No person shall open the door of a motor vehicle on the side available to moving traffic unless and until it is reasonably safe to do so, and can be done without interfering with the movement of other traffic, nor shall any person leave a door open on the side of a vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers.

State law reference(s)--Similar provisions, SDCL 32-30-2.5.

SECTION 20-11. EMERGENCY AND EXPERIMENTAL REGULATIONS

(a) The chief of police, by and with the approval of the city council, may make regulations necessary to make effective the provision of the traffic ordinances and make and enforce temporary regulations to cover emergencies of special conditions.

(b) The chief of police may make temporary rules regulating traffic or test traffic-control devices under actual conditions of traffic. No such experimental rule regulating traffic shall remain in effect for more than ninety (90) days.

SECTION 20-12. TAMPERING WITH VEHICLES

Any person who shall tamper with the motor vehicle of another, with intent to injure the same or cause inconvenience to the owner thereof, or who shall take and operate the motor vehicle of another without the consent of the owner or person lawfully in charge thereof, under such circumstances as not to constitute larceny, shall be guilty of a misdemeanor.

State law reference(s)--Similar provisions, SDCL 32-4-4.

SECTIONS 20-13 – 20-23. RESERVED

ARTICLE II. ENFORCEMENT AND OBEDIENCE

SECTION 20-24. DUTY OF POLICE DEPARTMENT

It shall be the duty of the police department to enforce the traffic regulations of this city and all of the state vehicle laws applicable to street traffic in this city, to make arrests for traffic violations, to investigate accidents and to cooperate with other officers of the city in the administration of the traffic laws in developing ways and means to improve traffic conditions, and to carry out those duties specially imposed upon the department by this chapter and the traffic ordinances of this city.

SECTION 20-25. POLICE DIRECT TRAFFIC

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

SECTION 20-26. OBEDIENCE TO POLICE

No person shall refuse or fail to comply with any lawful order, signal or direction of any police officer, or refuse to submit to any lawful inspection or fail to comply with the provisions or requirements of any warning ticket issued by the police under this chapter.

SECTION 20-27. PERSONS PROPELLING PUSHCARTS OR RIDING ANIMALS TO OBEY TRAFFIC REGULATIONS

Every person propelling any pushcart or riding an animal upon a roadway, and every person driving any animal-drawn vehicle, shall be subject to the provisions of this chapter applicable to the driver of any vehicle, except those provisions of this chapter which by their very nature can have no application.

SECTION 20-28. PUBLIC EMPLOYEES TO OBEY TRAFFIC REGULATIONS

The provisions of this chapter shall apply to the driver of any vehicle owned by or used in the service of the United States government, this state, county, or city, and it shall be unlawful for any said driver to violate any of the provisions of this chapter, except as otherwise permitted in this chapter.

SECTION 20-29. EXEMPTIONS TO AUTHORIZED EMERGENCY VEHICLES

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

SECTION 20-30. APPLICATION TO WORKMEN, EQUIPMENT

The provisions of this chapter shall not apply to persons, teams, motor vehicles and other equipment while actually engaged in work upon the surface of a street, but shall apply to such persons and vehicles when traveling to or from such work; provided however, such persons and vehicles shall not indiscriminately block traffic, but shall allow reasonable room on the traveled portion of the street for other vehicles to pass.

SECTIONS 20-31 – 20-41. RESERVED

ARTICLE III. PROCEDURES UPON ARREST*

***State law reference(s)--**Apprehension and prosecution of violators, SDCL ch. 32-33.

SECTION 20-42. MANNER OF ARREST

Except in cases of driving while intoxicated or under the influence of intoxicating liquor or any stupefying or exhilarating drug and except in the more serious and aggravated cases of speeding or careless and reckless driving and except when reasonably necessary to secure appearance, a person charged with a violation of this chapter or a traffic ordinance of the city by a police officer need not be arrested in the regular manner but may first be given an opportunity after notice to appear voluntarily to answer for such traffic violation.

SECTION 20-43. NOTICE TO APPEAR

A person charged with violation of this chapter or a traffic ordinance by notice shall be given a notice to appear before the court of competent jurisdiction at the time or within the time stated in such notice, which shall be within seventy-two (72) hours from the time of the offense, and that in event of failure to do so a warrant will be issued for his arrest.

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

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

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

SECTION 20-44. APPEARANCE AND DEPOSIT FOR FINE

A person who has received a notice of traffic violation through the police shall at or within the time specified in such notice, not later than seventy-two (72) hours after the time of the offense, appear before the court of competent jurisdiction to answer to the charge set forth therein according to the procedure of that court.

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

SECTION 20-45. ARREST ON FAILURE TO APPEAR

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

SECTION 20-46. REMOVAL OF CARS ILLEGALLY PARKED

Any vehicle parked in violation of this chapter or a traffic ordinance of this city may be removed from the streets by the police department and placed in public storage, and the owner thereof, in addition to the fines and penalties which may be imposed for such violation, shall pay the charges for towing and storage of the vehicle so removed by the police department. All money so collected by the police department shall be immediately deposited with the municipal finance officer.

SECTIONS 20-47 – 20-57. RESERVED

ARTICLE IV. ACCIDENTS*

***Editor's note--**Section 1 of Ord. No. 506, adopted May 17, 1994, amended this article to read as herein set out. Formerly, this article consisted of §§ 20-58--20-67, which pertained to accidents and derived from the 1978 Code.

State law reference(s)--Accidents and accident reports, SDCL ch. 32-34.

SECTION 20-58. DUTY OF VEHICLE OPERATOR TO STOP IN CASE OF ACCIDENT; INFORMATION GIVEN; AID TO INJURED PERSONS

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

(Ord. No. 506, § 1, 5-17-94)

State law reference(s)--Similar provisions, SDCL 32-34-3.

SECTION 20-59. IMMEDIATE REPORT TO POLICE AUTHORITY WHEN PERSONS ENTITLED TO RECEIVE INFORMATION ARE DISABLED; VIOLATION AS MISDEMEANOR

If none of the persons specified in section 20-58 are in condition to receive the information to which they otherwise would be entitled, and no police officer is present, the driver of any vehicle involved in such accident, after fulfilling all other requirements of section 20-58 insofar as possible on his part to be performed, shall forthwith report such accident to the nearest office of a duly authorized police authority and submit thereto the information specified in section 20-58.

(Ord. No. 506, § 1, 5-17-94)

State law reference(s)--Similar provisions, SDCL 32-34-3.1.

SECTION 20-60. DUTY TO STOP AFTER ACCIDENT WITH UNATTENDED VEHICLE OR PROPERTY; LEAVING INFORMATION; REPORT TO POLICE; VIOLATION AS MISDEMEANOR

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

(Ord. No. 506, § 1, 5-17-94)

State law reference(s)--Similar provisions, SDCL 32-34-4.

SECTION 20-61. INFORMATION FURNISHED BY DRIVER INVOLVED IN PROPERTY DAMAGE ACCIDENT; FAILURE AS MISDEMEANOR

Any driver of any vehicle involved in an accident resulting in damage to property shall stop his vehicle at the scene of the accident and immediately give his name and address, and the name and address of the owner of the vehicle. If the damage is to another motor vehicle and the owner of the damaged vehicle is not at the scene of the accident, the driver shall immediately leave such information on the other motor vehicle. If the damage is to property other than a motor vehicle,

and the owner of the damaged property is not at the scene, the driver shall leave such information with the owner of the property or with a law enforcement agency as soon as possible.

(Ord. No. 506, § 1, 5-17-94)

State law reference(s)--Similar provisions, SDCL 32-34-6.

SECTION 20-62. DUTY TO GIVE IMMEDIATE NOTICE OF ACCIDENT TO LAW ENFORCEMENT OFFICER; VIOLATION AS MISDEMEANOR

The driver of any motor vehicle involved in an accident resulting in bodily injuries or death to any person or property damage to an apparent extent of one thousand dollars ($1,000.00) or more to any one person's property or two thousand dollars ($2,000.00) per accident shall immediately, by the quickest means of communication, give notice of such accident to the nearest available law enforcement officer who has jurisdiction.

(Ord. No. 659, § 1, 10-20-03)
State law reference(s)--Similar provisions, SDCL 32-34-7.

SECTION 20-63. PHYSICAL INCAPACITY OF DRIVER

An accident report is not required from any person who is physically incapable of making such report during the period of such incapacity.

(Ord. No. 506, § 1, 5-17-94)

State law reference(s)--Similar provisions, SDCL 32-34-8.

SECTION 20-64. DUTY OF OCCUPANT OF VEHICLE TO GIVE NOTICE WHERE DRIVER IS PHYSICALLY INCAPABLE; VIOLATION AS MISDEMEANOR

If the driver of a vehicle is physically incapable of giving an immediate notice of an accident and there was another occupant in the vehicle at the time of the accident capable of doing so, such occupant shall make [give] or cause to be given the notice not given by the driver.

(Ord. No. 506, § 1, 5-17-94)

State law reference(s)--Similar provisions, SDCL 32-34-9.

SECTION 20-65. REPAIR OF VEHICLE WITH REPORTABLE DAMAGE PROHIBITED UNLESS REQUIRED NOTICE AFFIXED; VIOLATION AS MISDEMEANOR

The person in charge of any garage or repair shop shall not commence repair on any motor vehicle which shows evidence of having been involved in a reportable accident or struck by any bullet unless the vehicle bears the notice provided for in SDCL 32-34-10).

(Ord. No. 506, § 1, 5-17-94)

State law reference(s)--Similar provisions, SDCL 32-34-23.

SECTIONS 20-66 – 20-78. RESERVED

ARTICLE V. VEHICLE EQUIPMENT

SECTION 20-79. WARNING TICKETS

The police, upon reasonable belief that a vehicle is being operated in violation of any provision of this article, the traffic ordinances of the city or applicable state law or is in such unsafe condition as to endanger any person, may require the driver of the vehicle to stop and submit to inspection of the vehicle and its equipment, license plates and registration card. The police are hereby authorized to issue a warning ticket to any driver whose vehicle is in violation of any of the provisions of this article, the traffic ordinances of the city or applicable state law. Such warning ticket shall clearly designate the provisions which are being violated and shall provide for notification to the police department when such violation is corrected, by the time specified on the warning ticket. The form and content of the warning ticket shall be at the discretion of the chief of police.

SECTION 20-80. LIGHTS REQUIRED

A motor vehicle in motion, during the period from half an hour after sunset to half an hour before sunrise, shall display at least two (2) lighted lamps on the front and one on the rear of such motor vehicle, such lamps to conform to the state law; provided that a motorcycle or a motor bicycle shall be required to display but one lighted lamp in front and one in the rear.

State law reference(s)--Vehicle lights and flares, SDCL ch. 32-17.

SECTION 20-81. HEADLIGHTS DIMMED

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

SECTION 20-82. WARNING DEVICES

Every motor vehicle operated or driven in the city shall be provided with a suitable or adequate horn or other device for signaling which shall be in good working order at all times such vehicle is operated on the streets of the city.

State law reference(s)--Horns, SDCL 32-15-10.

SECTION 20-83. EMERGENCY VEHICLE WARNING DEVICE

Every police and fire department and fire patrol vehicle and every ambulance used for emergency calls shall be equipped with a bell, siren or exhaust whistle. It shall be unlawful for any other vehicle to be equipped with such equipment.

State law reference(s)--Similar provisions, SDCL 32-15-12.

SECTION 20-84. RED, BLUE LIGHTS

Except as to police or fire department, or fire patrol vehicles, or tow trucks or wreckers operating under such circumstances as may be provided by law, any person who drives or moves any vehicle upon a highway with any red or blue light thereon visible from directly in front or to the sides thereof shall be guilty of a misdemeanor.

State law reference(s)--Similar provisions, SDCL 32-17-9, 32-17-42.

SECTION 20-85. BRAKES

Every motor vehicle shall be provided with foot pedal brakes in good working order and sufficient to control such motor vehicle at all times when same is in use.

State law reference(s)--Brakes and brake fluid, SDCL ch. 32-18.

SECTION 20-86. MUFFLERS

No person shall drive a motor vehicle on any street within the city unless such vehicle is equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke.

It shall be unlawful for any person to use a muffler cut-out on any motor vehicle within the city.

State law reference(s)--Similar provisions, SDCL 32-15-17.

SECTION 20-87. PROJECTING LOADS

No person shall drive any vehicle upon any street with any load or part of a load projecting more than four (4) feet beyond the rear end or front end, or more than two (2) feet beyond the sides of the body, or carrying part of such vehicle, unless there be attached to the extreme ends and sides of such projecting load some warning sign or signal plainly discernible to other drivers and clearly indicating the projecting parts of such load.

SECTION 20-88. CLEATED, SPIKED TIRES

No tire on a vehicle moved on a street within the city shall have on its periphery any block, stud, flange, cleat, spike or any other protuberances of any material other than rubber which projects beyond the tread of the traction surface of the tire except that it shall be permissible to use farm machinery with tires having protuberances which will not injure the street and except also that it shall be permissible to use tire chains of reasonable proportions upon any vehicle when required for safety because of snow, ice or other conditions tending to cause a vehicle to slide or skid.

State law reference(s)--Similar provisions, SDCL 32-19-2.

SECTION 20-89. WEIGHT AND SIZE OF VEHICLE AND LOADS

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

State law reference(s)--Weight, size and load restrictions, SDCL ch. 32-22.

SECTION 20-90. WINDSHIELDS MUST BE UNOBSTRUCTED

It shall be unlawful for any person to drive any vehicle upon a public street with the front windshield obstructed or with any sign, poster, or other nontransparent material upon the front windshield, side wings, side, or rear windows of such motor vehicle other than a certificate or other

paper required to be so displayed by law or other than temporary driving instructions placed thereon by the manufacturer.

State law reference(s)--Similar provisions, SDCL 32-15-5.

SECTION 20-91. PROTECTION OF LOAD

(a) No vehicle shall be driven or moved on any street or highway in the city unless such vehicle is so constructed or loaded as to prevent any of its load from dripping, sifting, leaking or otherwise escaping therefrom, except that sand may be dropped for the purpose of securing traction, or water or other substances may be sprinkled on a roadway in cleaning or maintaining such roadway.

(b) No person shall operate on any street or highway in the city any vehicle with any load unless said load and any covering is securely fastened so as to prevent said covering or load from becoming loose, detached or in any manner a hazard to other users of the highway.

SECTION 20-92. DYNAMIC BRAKING PROHIBITED

It shall be unlawful to operate any motor vehicle with a dynamic braking device engaged except for the aversion of imminent danger. A Dynamic braking device (commonly referred to as Jacobs Brake) is defined as a device used primarily on trucks for the conversion of the engine from an internal combustion engine to an air compressor for the purpose of braking without the use of wheel brakes. Public emergency response vehicles equipped with a dynamic braking device will be allowed to use such device during a response to an emergency situation.

(Ord. No. 672, § 1, 12-20-04)

SECTIONS 20-93 – 20-102. RESERVED

ARTICLE VI. OPERATION OF VEHICLES GENERALLY

SECTION 20-103. STARTING

A standing vehicle about to start shall give all moving vehicles the right-of-way.

SECTION 20-104. DRIVE ON RIGHT SIDE OF STREET--GENERALLY

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

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

State law reference(s)--Similar provisions, SDCL 32-26-1.

SECTION 20-105. SAME--AT INTERSECTIONS

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

State law reference(s)--Similar provisions, SDCL 32-26-2.

SECTION 20-106. MEETING OF VEHICLES

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

State law reference(s)--Similar provisions, SDCL 32-26-3.

SECTION 20-107. DRIVING ON RAODWAYS LANED FOR TRAFFIC

Whenever any roadway has been divided into two (2) or more clearly marked lanes for traffic the following rules in addition to all others consistent herewith shall apply.

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

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

State law reference(s)--Highways laned for traffic, SDCL 32-26-5 et seq.

SECTION 20-108. DESIGNATION OF TRAFFIC LANES

The police chief is hereby authorized to mark lanes for traffic on street pavements at such places as he may deem advisable, consistent with the provisions of this chapter.

SECTION 20-109. DRIVING ON LEFT OF OTHER VEHICLES

It shall be unlawful for any driver or operator of a motor vehicle to drive or operate his vehicle on the left-hand side of another motor vehicle moving in the same direction in a single traffic lane, unless the driver or operator on the left is in the process of passing or overtaking another motor vehicle.

SECTION 20-110. DRIVING ON LEFT AT INTERSECTIONS

No vehicle shall be driven on the left side of the roadway when approaching within one hundred (100) feet of or traversing any intersection or railroad crossing, or when the view is obstructed upon approaching within one hundred (100) feet of any bridge, viaduct or tunnel.

State law reference(s)--Similar provisions, SDCL 32-26-36.

SECTION 20-111. DRIVING ON LEFT AT CURVES

No vehicle shall be driven on the left side of the roadway when approaching or upon the crest of a grade or a curve in the highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction.

State law reference(s)--Similar provisions, SDCL 32-26-35.

SECTION 20-112. OVERTAKING--GENERALLY

The operator of any vehicle overtaking another vehicle proceeding in the same direction shall pass at a safe distance to the left thereof, but only when such left side is clearly visible and is free from oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be made in safety and shall not cut in front of the overtaken vehicle until safely clear of same.

State law reference(s)--Similar provisions, SDCL 32-26-26.

SECTION 20-113. SAME--WHEN VISION OBSTRUCTED

The operator of a vehicle shall not drive to the left side of a center line of the traversable roadway in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be made in safety.

State law reference(s)--Similar provisions, SDCL 32-26-34.

SECTION 20-114. SAME--NO PASSING ZONES

The operator of a vehicle shall not overtake and pass any other vehicle proceeding in the same direction in any "no passing zone" and the police chief is hereby authorized to designate such no passing zones by the painting or placing of double lines in the center of the street and any zone or any street in the city where double lines, buttons or lanes have been painted or placed in the center of such street, shall be and is hereby designated as no passing zones and no operator of any vehicle shall pass any other vehicle proceeding in the same direction, in the zone.

State law reference(s)--Similar provisions, SDCL 32-26-37.

SECTION 20-115. SAME--DUTY OF OVERTAKEN OPERATOR

(a) The operator of a vehicle on a street shall not deviate from his direct line of travel without ascertaining that such movement can be made with safety to other vehicles approaching from the rear and about to overtake and pass such first mentioned vehicle.

(b) The operator of a vehicle upon a street about to be overtaken and passed by another vehicle approaching from the rear shall give way consistent with safety upon suitable and audible signal being given by the operator of the overtaking vehicle, and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

State law reference(s)--Similar provisions, SDCL 32-26-31.

SECTIONS 20-116 – 20-126. RESERVED

ARTICLE VII. TRAFFIC-CONTROL SIGNS, SIGNALS AND DEVICES*

***State law reference(s)--** Traffic-control devices, SDCL ch. 32-28.

SECTION 20-127. AUTHORITY TO INSTALL

The chief of police, unless otherwise determined by the city council, shall place and maintain traffic-control signs, signals and devices when and as required under the traffic ordinances of this city to make effective the provisions of the ordinances, and may place and maintain such additional traffic-control devices as he may deem necessary to regulate traffic under the traffic ordinances of this city or under state law or to guide or warn traffic.

(Ord. No. 314, Art. I, § 1, 11-4-75)

SECTION 20-128. MANUAL AND SPECIFICATIONS

(a) All traffic-control signs, signals and devices shall conform to the Manual of Uniform Traffic Control Devices as adopted by the South Dakota Highway Commission on June 27, 1973, which is hereby incorporated and adopted herein by the city.

(b) All signs and signals required hereunder for a particular purpose shall so far as practicable be uniform as to type and location throughout the city. All traffic-control devices so erected and not inconsistent with the provisions of state law or this article shall be official traffic-control devices.

(Ord. No. 314, Art. I, § 2, 11-4-75)

SECTION 20-129. DESIGNATION AND MARKING OF CROSSWALKS AND SAFETY ZONES

(a) The chief of police may designate and maintain, by appropriate devices, marks or lines upon the surface of the roadway, crosswalks where, in his opinion, there is particular danger to pedestrians crossing the roadway, and at such other places as he may deem necessary.

(b) The chief of police may establish safety zones of such kind and character and at such places as he may deem necessary for the protection of pedestrians.

(c) The chief of police may mark lanes for traffic on street pavements at such places as he may deem advisable, consistent with the traffic ordinances. Where such traffic lanes have been marked, it shall be unlawful for the operator of any vehicle to fail or refuse to keep such vehicle within the boundaries of any such lane except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

(Ord. No. 314, Art, I, § 3, 11-4-75)

SECTION 20-130. PLAY STREETS

(a) The city council may declare any street or part of street a play street and place appropriate signs or devices in the roadway and blockade such roadway with appropriate markers and in that manner prohibit the public from traveling on the street and reserve such street for the use of children.

(b) Whenever authorized signs are erected indicating any street or part thereof as a play street, no person shall drive a vehicle upon any such street or portion thereof except drivers of vehicles having business or whose residences are within such closed area, and then any such driver shall exercise the greatest care in driving upon any such street or portion thereof.

(Ord. No. 314, Art. I, § 4, 11-4-75)

SECTION 20-131. INTERFERENCE WITH SIGNS, UNAUTHORIZED SIGNS AND SIGNALS

(a) No person shall, without lawful authority, attempt to or in fact alter, deface, injure, knock down, obstruct or remove any official traffic-control device or any railroad sign or signal or any inscription, shield or insignia thereon, or any other part thereof.

(b) No person shall place or maintain or display upon or in view of any street any unofficial sign, signal or device which purports to be or is an imitation of or resembles an official traffic device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any official traffic-control device or any railroad sign or signal.

(Ord. No. 314, Art. I, § 5, 11-4-75)

SECTION 20-132. OBEDIENCE TO TRAFFIC-CONTROL DEVICES

(a) No person shall violate any traffic sign or marking or other traffic-control device adopted, prescribed or established in accordance with the provisions of this article, unless otherwise directed by a police officer.

(b) It shall be unlawful for an operator of any vehicle to intentionally avoid any traffic signal or device by driving off the highway or street and driving across private property.

(Ord. No. 314, Art. I, § 6, 11-4-75)

SECTION 20-133. TRUCK ROUTES

(a) There is hereby established within and for the city the Primary truck routes which shall be subject to the regulations set forth in this section upon the following described streets and highways:

(1) *State Highway 115* from the west boundary of the city turning southeast to the south boundary of the city.

(2) *Quartzite Street* from *State Highway 115* on the west to *Garfield Avenue* on the east.

(3) *Garfield Avenue* between *Quartzite Street* and *Seventh Street*.

(4) *Seventh Street* from *Garfield Avenue* on the west to the east boundary of the city.

(5) *County Highway 129* from the north boundary of the city angling southeast to where the highway intersects *State Highway 115 (Fourth Street)* and continuing south on *State Highway 115* to the south boundary of the city.

(6) *Zero Street* from *State Highway 115* on the east to *Quarry Road* on the west.

(7) The entire portions of *Quarry Road* and *Quartzite Street*.

(b) There is hereby established within and for the city the Secondary truck route which shall be subject to the regulations set forth in this section and which shall only be travelled for the purpose of loading or unloading commodities or personal property at locations within the City that are south of 4th Street and east of State Highway 115 and west of Garfield Avenue. The Secondary truck route shall be upon the following described streets:

(1) *Third Street* from *State Highway 115* on the west to *Orleans Avenue* on the east.

(2) *Orleans Avenue* between *Third Street* and *Fourth Street*.

(3) *Fourth Street* between *Orleans Avenue* and *Garfield Avenue.*

(c) The term *truck* when used in this section shall mean and include any truck, trailer, or any combination thereof, and any farm implement, tractor, combine, wagon, or any combination thereof.

(d) No person shall drive or operate any *truck* having a gross weight of eight (8) tons or more within the City except on such truck route.

(e) No *truck* weighing eight (8) tons or more may be operated off the truck route(s) except for the following limited temporary purposes:

(1) Where it becomes necessary to traverse another street or streets for the purpose of loading or unloading commodities or personal property at a

destination within the City or adjacent to the City limits (but see subsection (f) below for the regulation of garbage or recycling collector trucks);

(3) When instructed to do so by any lawful order of any law enforcement officer;

(4) The use and travel of any authorized emergency vehicle of the police department, fire department, ambulance or other public authority when engaged in the performance of such emergency service or any vehicle owned by or performing work for schools, hospitals, medical clinics, the United States of America, the state, its political subdivisions, or the City;

(5) Any contractor or material men, while engaged in the repair, maintenance or construction of City streets or City improvements, provided that these vehicles shall only use the City streets within the immediate work area and shall only use the shortest route from the truck route to the work area; and

(6) When the operator of any such *truck* shall have requested upon good cause and shall have obtained special temporary authority from the police department to deviate from the truck route(s).

Every *truck* shall follow the truck route(s) as close as practicable to its destination. Any deviation from the truck route(s) per subsection (e)(1) and (4) above shall be only as is reasonably necessary. Any deviation per subsections (e)(2) and (5) above shall conform to the route directed by the officer involved.

(f) Garbage or recycling collector trucks with tandem rear axles or a single dually with pusher used to pick up items from customers located on a regular established route shall not exceed 20 tons total gross weight. Garbage or recycling collector trucks with less than tandem rear axles shall not exceed 10 tons total gross weight. Garbage or recycling collector trucks used to empty large metal dumpsters or roll-off containers are exempt from the City weight restrictions provided that said truck may only deviate from the truck route(s) as is reasonably necessary."

(g) Any police officer has the authority to require any person driving or in control of any *truck* to proceed to any public or private scale for the purpose of weighing and determining whether such truck is in violation of this ordinance or any other code provision. Such authorities may issue a citation to any motor vehicle that exceeds the limits imposed by this ordinance. Such authorities may detain such vehicles until the weight of such vehicles meets the limits imposed by this ordinance.

(Ord. No. 426, § 1, 10-7-86; Ord. No. 458, § 1, 5-15-90; Ord. No. 459, § 1, 6-19-90; Ord. No. 734, §§ 1 - 3, 1-04-10; Ord. No. 834, § 1, 6-6-16; Ord. No. 837, §§ 1 & 2, 8-1-16; Ord. No. 856, § 1, 9-4-18)

SECTION 20-134. ONE-WAY STREETS.

(a) The city shall place and maintain signs giving notice of the location of one-way streets, and no regulation shall be effective unless the signs are in place. Signs indicating the direction of lawful traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited. It shall be unlawful for any person to operate any vehicle in violation of the markings, signs, barriers or other devices placed in accordance with the provisions of this section. There is hereby established within and for the city one-way streets at the following locations:

(1) *State Avenue between 8th and 9th Street. Signage on this Street shall reflect the one-way direction of travel from south to north.*

(Ord. No. 917, § 1, 11-21-22)

SECTIONS 20-147 – 20-157. RESERVED

ARTICLE IX. SPEED REGULATIONS*

***State law reference(s)--** Speed regulation, SDCL ch. 32-25.

SECTION 20-158. GENERAL RESTRICTIONS

It shall be unlawful for any person to drive a vehicle on a street or highway at a speed that is greater than reasonable and prudent under the conditions then existing or at a speed in excess of those fixed in this article.

(Ord. No. 314, Art. II, § 1, 11-4-75)

SECTION 20-159. ESTABLISHMENT OF SPEED ZONES

(a) The city council is authorized and empowered to determine and establish upon any street or highway within the city or any part thereof, limited speed zones which speed limit shall constitute the maximum speed at which any person may drive or operate any vehicle upon such zoned street or highway or portion thereof so zoned, and on which highway the maximum speed permissible in the zone has been conspicuously posted by signs adopted by the city council.

(b) The beginning of such limited speed zones shall be indicated by signs showing the speed limits.

(Ord. No. 314, Art. II, § 2, 11-4-75)

SECTION 20-160. MAXIMUM LIMITS GENERALLY

Except as may otherwise be provided by this article, it shall be unlawful for any person to operate or drive any vehicle at a rate of speed greater than the following:

(1) Twenty (20) miles per hour within any business district;

(2) Fifteen (15) miles per hour on an alley;

(3) Twenty-five (25) miles per hour within any residence district;

(4) The appropriate legal maximums established by state law on all other unmarked streets and highways within the city shall be effective.

(Ord. No. 314, Art. II, § 3, 11-4-75)

SECTION 20-161. SCHOOL ZONES

It shall be unlawful for any person to operate or drive any vehicle at a speed greater than fifteen (15) miles per hour when passing a school during recess or while children are going to or leaving school during opening or closing hours for such school.

(Ord. No. 314, Art. II, § 4, 11-4-75)

SECTION 20-162. RAILROAD INTERSECTIONS

It shall be unlawful for any person to operate or drive any vehicle at a rate of speed greater than fifteen (15) miles per hour when approaching within fifty (50) feet of a grade crossing of any railway when the driver's view is obstructed. A driver's view shall be deemed to be obstructed when at any time during the last two hundred (200) feet of his approach to such crossing, he does not have a clear and uninterrupted view of such railway crossing of any traffic on such railway for a distance of four hundred (400) feet in each direction from such crossing.

(Ord. No. 314, Art. II, § 5, 11-4-75)

Cross reference(s)--Railroads generally, Ch. 18.

State law reference(s)--Similar provisions, SDCL 32-25-13.

SECTION 20-163. OBSTRUCTED INTERSECTIONS

It shall be unlawful for any person to operate or drive any vehicle at a greater speed than fifteen (15) miles per hour when approaching within fifty (50) feet of, and in traversing an intersection of highways when the driver's view is obstructed. A driver's view shall be deemed to be obstructed when at any time during the last fifty (50) feet of his approach to such intersection he does not have a clear and uninterrupted view of such intersection and of the traffic upon all of the highways entering such intersection for a distance of two hundred (200) feet from such intersection.

(Ord. No. 314, Art. II, § 6, 11-4-75)

State law reference(s)--Similar provisions, SDCL 32-25-13.

SECTION 20-164. EMERGENCY VEHICLES

The speed limit set out in this article shall not apply to authorized emergency vehicles when responding to emergency calls, provided the drivers thereof sound audible signals by siren or horn and two (2) red lights are displayed to the front or a flashing red light is displayed on top of said car so as to be plainly visible to all traffic in the area. This provision shall not relieve the drive of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the street nor shall it protect the driver of any such vehicle from the consequence of a reckless disregard of the safety of others.

(Ord. No. 314, Art. II, § 7, 11-4-75)

SECTION 20-165. SLOW SPEED

No person shall drive a motor vehicle at such a slow speed as to impede the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law.

(Ord. No. 314, Art. II, § 8, 11-4-75)

State law reference(s)--Similar provisions, SDCL 32-25-5.1.

SECTIONS 20-166 – 20-176. RESERVED

ARTICLE X. TURNS

SECTION 20-177. GENERALLY

No person shall turn a vehicle at an intersection unless the vehicle is in proper position upon the roadway, or turn a vehicle to enter a private road or driveway or otherwise turn a vehicle from a

direct course or move right or left upon a roadway, unless and until such movement can be made with reasonable safety.

SECTION 20-178. RIGHT TURN

The operator of a vehicle intending to turn to the right at an intersection or into an alley or driveway shall approach the point of turning in the line of traffic nearest the right-hand curb or edge of the street.

State law reference(s)--Similar provisions, SDCL 32-26-17.

SECTION 20-179. TURNING LEFT

Except where otherwise directed by turning markers, the operator of a vehicle intending to turn left at any intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle, and, after entering the intersection, the left turn shall be made so as to leave the intersection in a lane lawfully available to traffic moving in such direction upon the roadway being entered. Whenever practicable the left turn shall be made in that portion of the intersection to the left of the center of the intersection.
State law reference(s)--Similar provisions, SDCL 32-26-18.

SECTION 20-180. LIMITATIONS ON TURNING AROUND

The driver of any vehicle shall not turn such vehicle so as to proceed in the opposite direction upon any one-way street, or upon any bridge or viaduct, or on any street in a business or commercial area, or at any intersection controlled by traffic-control signals, and shall not upon any other street so turn a vehicle except at an intersection and unless such movement can be made in safety and without interfering with other traffic.

SECTION 20-181. TURNING MARKERS

The police chief may modify the method of turning at intersections provided by this article by clearly indicating by buttons, markings or other direction signs installed within an intersection the course to be followed by vehicles turning thereat, and it shall be unlawful for any driver to fail to turn in a manner as so directed. No such signs or buttons shall be placed upon any state highway without the approval of the state highway commission.

State law reference(s)--Similar provisions, SDCL 32-26-20.

SECTION 20-182. WHEN PROHIBITED AT INTERSECTIONS

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

SECTIONS 20-183 – 20-193. RESERVED

ARTICLE XI. TURNING, STOPPING SIGNALS

SECTION 20-194. GENERALLY

No person shall turn any vehicle without first giving an appropriate signal in the event any other traffic may be affected by such movement.

SECTION 20-195. WHEN REQUIRED

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

(b) No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided herein to the driver of any vehicle immediately to the rear when there is opportunity to give such signal.

SECTION 20-196. SIGNALS BY HAND AND ARM OR SIGNAL DEVICE

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

State law reference(s)--Similar provisions, SDCL 32-26-23.

SECTION 20-197. METHOD OF GIVING HAND-AND-ARM SIGNALS

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

(1) *Left turn.* Hand and arm extended horizontally.

(2) *Right turn.* Hand and arm extended upward.

(3) *Stop or decrease speed.* Hand and arm extended downward.

SECTIONS 20-198 – 20-208. RESERVED

ARTICLE XII. REQUIRED STOP, YIELD INTERSECTIONS*

***State law reference(s)--** Required stops, SDCL ch. 32-29.

SECTION 20-209. DESIGNATION OF THROUGH STREETS

Whenever the city council shall designate by ordinance any street or any portion of a street as a through street, the provisions of this article shall be applicable thereto.

SECTION 20-210. SIGNS REQUIRED AT THROUGH STREETS

Whenever any ordinance of the city designates and describes a through street it shall be the duty of the police chief to place and maintain a stop sign, or on the basis of an engineering and traffic investigation at any intersection a yield sign, on each and every street intersecting such through street unless traffic at any such intersection is controlled at all times by traffic-control signals; provided, however, that at the intersection of two (2) such through streets or at the intersection of a through street and a heavy traffic street not so designated, stop signs shall be erected at the approaches of either of said streets as may be determined by the police chief upon the basis of an engineering and traffic study.

State law reference(s)--Similar provisions, SDCL 32-29-2.

SECTION 20-211. OTHER INTERSECTIONS WHERE STOP OR YIELD REQUIRED

The police chief, subject to the approval of the city council, is hereby authorized to determine and designate intersections where particular hazard exists upon other than through streets and to determine whether vehicles shall stop at one or more entrances to any such intersection, in which event he shall cause to be erected a stop sign at every such place where a stop is required, or whether vehicles shall yield the right-of-way to vehicles on a different street at such intersection

as prescribed in subsection (a) of section 20-212, in which event he shall cause to be erected a yield sign at every place where obedience thereto is required.

SECTION 20-212. OBEDIENCE TO SIGNS

(a) The driver of a vehicle approaching a yield sign if required for safety to stop shall stop before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway.

(b) 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 stop before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, shall stop at a clearly marked stop line, but 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.

SECTION 20-213. VEHICLE ENTERING STOP INTERSECTION

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 stop as required by subsection (b) of section 20-212, and after having stopped shall yield the right-of-way to any vehicle which has entered the intersection from another highway or which is approaching so closely on said highway as to constitute an immediate hazard during the time when such driver is moving across or within the intersection.

State law reference(s)--Similar provisions, SDCL 32-29-2.1.

SECTION 20-214. VEHICLE ENTERING STOP INTERSECTION

The driver of a vehicle approaching a yield sign shall in obedience to such sign slow down to a speed reasonable for the existing conditions and shall yield the right-of-way to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard during the time such driver is moving across or within the intersection; provided, however, that if such a driver is involved in a collision with a vehicle in the intersection, after driving past a yield sign without stopping, such collision shall be deemed prima facie evidence of his failure to yield the right-of-way.

State law reference(s)--Similar provisions, SDCL 32-29-3.

SECTION 20-215. ALLEY, PRIVATE DRIVEWAY

The operator of a vehicle emerging from an alley, private driveway or building into or onto a street shall stop such vehicle immediately prior to driving onto a crosswalk or crosswalk area extending across such approach and shall not proceed into or onto such street in such a manner as to interfere with or block traffic on such street.

State law reference(s)--Similar provisions, SDCL 32-26-14.

SECTION 20-216. STOP WHEN TRAFFIC OBSTRUCTED

No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic-control signal indication to proceed.

SECTION 20-217. STOP AT RAILROAD CROSSING SIGNAL

Whenever any person driving a vehicle approaches a railroad grade crossing and a clearly audible or visual signal gives warning of the immediate approach of a railway train or car, the driver of such vehicle shall stop within fifty (50) feet but not less than fifteen (15) feet from the nearest rail of such railroad, and shall not proceed until he can do so safely.

Cross reference(s)--Railroads generally, Ch. 18.

State law reference(s)--Similar provisions, SDCL 32-29-4.

SECTION 20-218. CERTAIN VEHICLES MUST STOP AT RAILWAY GRADE CROSSINGS

The operator of any motor bus carrying passengers for hire, and the operator of any school bus carrying any schoolchild, and the operator of any motor truck carrying explosive substances or explosive liquids of any specific gravity as a cargo or part of a cargo, and the operator of any vehicle of the tractor or caterpillar type, other than the truck tractor, shall, before crossing at grade any track or tracks of railway, bring such vehicle to a stop not less than ten (10) feet from such railway or more than fifty (50) feet from the nearest rail of such track, and while stopped, shall both look and listen in both directions along such track for approaching trains or cars before traversing such crossing.

Cross reference(s)--Railroads generally, Ch. 18.

State law reference(s)--Similar provisions, SDCL 32-29-5.

SECTIONS 20-219 – 20-229. RESERVED

ARTICLE XIII. MISCELLANEOUS DRIVING RULES

SECTION 20-230. RECKLESS DRIVING

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

(Ord. No. 181, § 1, 9-21-48)

State law reference(s)--Reckless and unsafe driving, SDCL ch. 32-24.

SECTION 20-231. CARELESS DRIVING

Any person who drives a vehicle within the limits of the city carelessly in disregard to the width, grade, curves, corners, condition or customary usage of the streets or highways, or whose temporary inadvertence to the operation of such vehicle causes or is likely to cause damage to any person or property, shall be guilty of careless driving.

SECTION 20-232. EXHIBITION DRIVING

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

(Ord. No. 239, § 1, 7-5-67)

SECTION 20-233. UNSAFE BACKING

The driver of a vehicle shall not back the same unless such movement can be made with safety and without interfering with other traffic.

State law reference(s)--Similar provisions, SDCL 32-30-20.

SECTION 20-234. MAXIMUM PASSENGERS

No person shall drive a vehicle when it is so loaded, or when there are in the front seat such a number of persons, exceeding three (3), as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver's control over the driving mechanism of the vehicle.

State law reference(s)--Similar provisions, SDCL 32-26-43.

SECTION 20-235. INTERFERENCE WITH VIEW, MECHANISM

No passenger in a vehicle shall ride in such position as to interfere with the driver's view ahead or to the sides, or to interfere with his control over the driving mechanism of the vehicle.

State law reference(s)--Similar provisions, SDCL 32-26-44.

SECTION 20-236. FOLLOWING TOO CLOSELY

The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard to the speed of such vehicle and the traffic upon and the condition of the highway, but this shall not be construed to prevent one vehicle overtaking and passing another.

State law reference(s)--Similar provisions, SDCL 32-26-40.

SECTION 20-237. VEHICLES ON PARKINGS OR SIDEWALKS

No person shall drive any vehicle or motor vehicle upon the sidewalks or parkings or permit any such vehicle to be driven or remain on any sidewalk or parking.

State law reference(s)--Similar provisions, SDCL 32-26-21.1.

SECTION 20-238. FOLLOWING FIRE APPARATUS

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

Cross reference(s)--Fire prevention and protection, Ch. 10.

State law reference(s)--Similar provisions, SDCL 32-31-7.

SECTION 20-239. CROSSING FIRE HOSE

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

Cross reference(s)--Fire prevention and protection, Ch. 10.

State law reference(s)--Similar provisions, SDCL 32-31-8.

SECTION 20-240. DRIVING THROUGH PROCESSION

No driver of any vehicle shall drive through or otherwise interfere with any funeral or other authorized procession in any of the streets, and it shall be the duty of the driver of any vehicle to stop when reaching a street on which such a procession is passing and wait until the procession has entirely passed.

SECTION 20-241. CORNER CUTTING

It shall be unlawful for any person to drive any motor vehicle upon or across any sidewalk, driveway, filling station or other commercial driveway or other similar surface located at the corner of any intersection protected by a traffic light or other traffic signal or sign, for the purpose of evading the regulations governing the turning of motor vehicles at intersections.

SECTION 20-242. BACKING INTO INTERSECTIONS OR AROUND CORNERS PROHIBITED

No vehicle shall be backed around the corner at an intersection or into an intersection.

SECTIONS 20-243 – 20-253. RESERVED

ARTICLE XIV. PARKING, STOPPING AND STANDING*

***State law reference(s)--** Stopping and parking restrictions, SDCL ch. 32-30.

SECTION 20-254. MOTOR VEHICLES LEFT UNATTENDED

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

State law reference(s)--Similar provisions, SDCL 32-30-5.

SECTION 20-255. PLACES WHERE STANDING AND PARKING RESTRICTED

(a) Except when otherwise allowed by the City Council, or when directed by a law enforcement officer or official traffic-control device, no driver, operator, owner or other person in control of any vehicle shall cause, allow or permit any vehicle to stand or park, whether occupied or not, except momentarily to pick up or discharge a passenger or passengers:

(1) In front of a public or private driveway, except that the owner or tenant of the premises or any person under his or her direction, with permission, may park in front of his or her own private driveway;

(2) Within fifteen (15) feet of a fire hydrant, except as provided in paragraph (b) hereinafter;

(3) Within twenty (20) feet of a crosswalk at an intersection, except as provided in paragraph (b) hereinafter;

(4) Within thirty (30) feet upon the approach to any flashing signals, stop sign, yield sign or traffic-control signal located at the side of a roadway, except as provided in paragraph (b) hereinafter;

(5) Within twenty (20) feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five (75) feet of the entrance when properly sign posted;

(6) At any place where official signs (including officially painted or marked areas) prohibit standing or parking;

(7) REPEALED.

(8) Where none of the foregoing conditions exist, within an intersection or within thirty (30) feet from an intersection, as measured from intersecting curb or from the edge of street surface when curb is not present, except as provided in paragraph (b) hereinafter.

(b) It shall be permissible to park a vehicle in a parking space that is clearly marked or painted by or under the direction of the city or its authorized representative.

(c) REPEALED.

(Ord. No. 428, § 1, 10-7-86; Ord. No. 537, § 1, 5-7-96; Ord. No. 648, § 1 & 2, 4-7-03; Ord. No. 648, § 1, 8-15-22; Ord. No. 960, § 1, 5-4-26)

State law reference(s)--Similar provisions, SDCL 32-30-6.

SECTION 20-256. PLACES WHERE STOPPING PROHIBITED

(a) Except when otherwise directed by a law enforcement officer or official traffic-control device, no driver, operator, owner or other person in control of any vehicle shall cause, allow or permit any vehicle to stop, stand or park:

(1) On the roadway side of any vehicle stopped or parked at the edge or curb of a street, except as provided in paragraph (b) hereinafter;

(2) On a sidewalk;

(3) Within an intersection;

(4) On a crosswalk;

(5) Between a safety zone and the adjacent curb or within thirty (30) feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by signs or markings;

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

(7) Upon any bridge or other elevated structure upon a highway or within a highway tunnel;

(8) On any railroad tracks;

(9) At any place where official signs (including officially painted or marked areas) prohibit stopping.

(b) It shall be permissible for commercial delivery trucks to park in the center of Fourth Street between Clark Avenue and State Avenue, except in those areas where angle parking exists on one (1) side of the street. It shall also be permissible for commercial delivery trucks to park on or along or in the center of any side street within the business district, but only for a reasonable time to make deliveries to businesses located in the business district.

(Ord. No. 427, § 1, 10-7-86; Ord. No. 537, § 2, 5-7-96)

State law reference(s)--Similar provisions, SDCL 32-30-6.1.

SECTION 20-257. RELATIVE RIGHTS OF VEHICLES TO SINGLE PARKING SPACE

Whenever the operator of a vehicle is desirous of occupying a parallel parking space which is about to be vacated, he shall place his vehicle in a position in the lane nearest to the space he wishes to occupy with the front of his vehicle to the rear of the vehicle vacating the parking space. He shall hold this position until the parking space is vacated, after which, remaining in the same lane, the driver of such vehicle shall drive forward a sufficient distance to enable him to occupy the parking space by backing into the same. While backing in the process of parking, the driver of such vehicle shall have the right-of-way to such parking space.

The right-of-way and procedure for occupying a single space which is already vacant shall be the same as that herein above prescribed, except that it shall not be necessary for the operator to bring his vehicle to a halt in the rear of the space to be occupied.

SECTION 20-258. MANNER OF PARKING GENERALLY

Except where angle parking shall be permitted, it shall be unlawful for the driver, operator or owner of any motor vehicle, trailer or implement to park or leave standing, attended or unattended, on any street or avenue of the city unless such vehicle, trailer or implement be parked parallel to the curb headed in the direction of traffic, with the curbside wheels of such vehicle, trailer, or implement within twelve (12) inches of the curb and no closer than four (4) feet to any other vehicle, and with the wheels turned to the curb.

SECTION 20-259. ANGLE PARKING

(a) The police chief, subject to the approval of the city council, shall determine upon which streets angle parking shall be determined and shall mark or sign such streets. Angle parking shall not be indicated or permitted at any place where passing traffic would thereby be caused or required to drive upon the left side of the street or upon any railway tracks.

(b) Upon those streets which have been signed or marked for angle parking, no person shall park or stand a vehicle other than at the angle to, and with the hood or front end of such vehicle next to, the curb or edge of the roadway indicated by such signs or markings.

SECTION 20-260. PARK WITHIN MARKINGS

Whenever parking spaces are marked by lines on the pavement, whether for parallel or angle parking, a vehicle must be parked entirely within the lines of the parking space.

SECTION 20-261. OBSTRUCTING SNOW REMOVAL AND STREET CLEANING

No vehicle shall be parked in such a manner or for such a period of time, so as to unreasonably interfere with or obstruct the removal of snow from, or the cleaning of the streets in the city.

Cross reference(s)--Snow and ice removal generally, § 19-67 et seq.; emergency snow routes, § 20-267.

SECTION 20-262. NO STOPPING, STANDING OR PARKING NEAR HAZARDOUS OR CONGESTED PLACES

(a) Any law enforcement officer is hereby authorized to determine and designate by proper signs or other markings, places in which the stopping, standing or parking of vehicles would create an especially hazardous condition or would cause unusual delay to traffic.

(b) When official signs or markings are erected or in place in hazardous or congested places as authorized herein, no driver, operator, owner or other person in control of any vehicle shall cause, allow or permit any vehicle to stop, stand or park in any such designated place.

(Ord. No. 537, § 3, 5-7-96)

SECTION 20-263. LENGTH OF VEHICLE

All vehicles exceeding in length twenty-two (22) feet or combination of vehicles exceeding fifty (50) feet shall be parked at places only as have been marked and designated for such use by the City Council and shall be parked parallel with the curb. This section shall not apply to light delivery trucks delivering goods from place to place which requires a stop or parking of but a few minutes to receive or deliver merchandise or to garbage trucks in the collection of refuse.

(Ord. No. 711, § 1, 9-4-07)

SECTION 20-264. DESIGNATION OF PROHIBITED PARKING

Wherever in any street or avenue in the city the curb is painted with a solid yellow stripe, or an appropriate sign is erected, by or under the direction of the city or its authorized representative, such stripe, marking or sign shall indicate a "No Parking" area or zone, and it shall be unlawful for a driver, operator, owner or other person in control of any vehicle to cause, allow or permit any vehicle to park adjacent to such marking.

(Ord. No. 537, § 4, 5-7-96)

SECTION 20-265. DESIGNATION OF LIMITED PARKING

No vehicle shall be parked for a longer period of time than that designated by appropriate signs or parking meters located and controlling the space where such vehicle is parked.

SECTION 20-266. PARKING IN AND BLOCKING ALLEYS PROHIBITED

No driver, operator, owner or other person in control of any vehicle shall cause, allow or permit any vehicle to park in any alley except temporarily for the purpose of and while actually taking on or letting off passengers or loading or unloading or delivering goods, merchandise, or other personal property, and shall not so park or shall not drive any vehicle in any alley at any time in such manner as to block the alley for traffic, except for the loading or unloading of heavy freight, which shall only be for a reasonable amount of time.

(Ord. No. 537, § 5, 5-7-96)

SECTION 20-266.5. PARKING IN AND BLOCKING ALLEYS PROHIBITED

None of the Dell Rapids City Ordinances regarding abandoned vehicles or standing and parking of vehicles shall apply to trash dumpsters, trailers, flatbed trucks, etc., which are located at or near a site where construction is occurring. Such sites are governed instead by the following provisions. Trailers, flatbed trucks, and the like, which are used for hauling and/or storing construction materials or equipment to or at a job site may be parked on any public or platted street, for a period of time not exceeding seven days, only when all three of the following criteria are met:

(1) A building permit is posted prominently on the property, and

(2) A trailer or flatbed truck parked on the property would interfere with installation of sprinkler systems, landscaping, etc., and

(3) A concrete driveway or approach on which the construction trailer or truck could be parked has not yet cured.

(Ord. No. 711, § 2, 9-4-07)

SECTION 20-267. PARKING DURING SNOW REMOVAL ALERT

A. *Definitions*. For the purposes of this Section, the following terms and words shall have the meaning given herein:

1. Snow Removal Alert: shall mean such times as there is a snow accumulation on the public streets of two (2) inches or more, or such times as the Public Works Director or his or her designee declares that snow removal operations on the public streets will commence and that the provisions of this Section in regard to parking on public streets during snow removal operations are effective and will be enforced.

2. Street: shall mean the entire width of any public roadway within the City, and it shall not be limited to those roadways designated as a *Street* but shall include all other names by which public roadways are designated.

B. Declaration of Snow Removal Alert. A snow alert will occur automatically with the accumulation of two (2) inches of snow on the public streets or when the Public Works Director or his or her designee determines that snow removal from the public streets will commence. The Public Works Director or his or her designee will announce through local news media, text message, social media or whatever other sources are available that there has been declared a snow removal alert and that the provisions of this Section will be effective and enforced, designating a particular date and time when the alert shall commence. The determination to declare a snow removal alert will be based on the then existing weather conditions, and the amount of snow then on the ground or expected according to forecasts from the National Weather Service.

C. Parking During Snow Removal Alert. Parking on any public street in the City will be completely prohibited, on both sides and regardless of the directional run of that street, during the existence of a snow removal alert.

D. Termination of Snow Removal Alert. After a snow removal alert has been declared, there will be no declaration of its termination, but the alert shall terminate and the provisions of this Section become not effective nor enforceable as to any particular street or portion of a street, as soon as that street or portion thereof has been plowed and cleared of snow accumulation, curb-to-curb, and the snow removal equipment is no longer operating in that area, after which normal parking may be resumed until the next declared snow removal alert.

E. Violation of Snow Removal Alert. The owner or operator of any vehicle, trailer or moveable property item parking in violation of this Section shall be subject to a fine as set forth in Section 20-268. Late payment of the fine or any subsequent offenses occurring within six (6) months of a prior violation of this Section shall result in additional fines or penalties as provided in Section 20-269.

F. Towing and Impounding. In addition to any fine or fines provided herein, any vehicle, trailer or other movable property item parked in violation of this Section is hereby declared to be a public nuisance and may be removed by or at the direction of the City without further notice to the owner or person in control or possession thereof. Removal shall be at

the expense and risk of the owner or person in control or possession thereof. The removal may be done by city crews or by private tow truck, wrecker or other operator, without risk or liability to the City or private business person doing the removal. Once removed, the vehicle, trailer or other property item shall be impounded by the City or private business person until the owner or person in control or possession thereof shall pay the towing and storing charges.

(Ord. No. 370, § 1, 1-6-81; Ord. No. 397, § 1, 12-20-83; Ord. No. 405, § 1, 1-2-85; Ord. No. 537, § 6, 5-7-96; Ord. No. 576, § 1, 1-18-99; Ord. No. 751, § 2, 10-17-11; Ord. No. 963, § 1, 9-21-2026)

Cross reference(s)--Snow and ice removal, § 19-67 et seq.; obstructing snow removal, § 20-261.

SECTION 20-268. PENALTY PROVISION AND COSTS

(a) Unless otherwise specifically provided in the code of ordinances of the city, the following shall constitute the penalties hereby established for violation of any ordinance pertaining to parking, or snow routes or removal:

(1) Overtime parking in violation of any sign or lawful order of any law enforcement officer . . . . $ 25.00

(2) Double parking in violation of the applicable ordinance or lawful order of any law enforcement officer 25.00

(3) Prohibited and/or restricted parking, in violation of the applicable ordinance or lawful order of any law enforcement officer 50.00

(4) Restricted parking on Fourth Street in violation of section 20-255(9) 50.00

(5) Parking on a snow route in violation of section 20-267 . . . . 50.00

(6) Obstructing snow removal and street cleaning in violation of the applicable ordinance or lawful order of any law enforcement officer 50.00

(b) The city council shall, by resolution, set and have the authority, by resolution, to amend from time to time the impound fees for impoundment of vehicles and other items in the city impound lot; the towing fees and charges for towing vehicles and other items to the city impound lot and other locations; the daily storage fee for storage of vehicles and other items in the city impound lot; and any other cost or fee item that may be associated with removal of vehicle or other items in violation of any city ordinance or state statute.

***Editor's note--**Section 1 of Ord. No. 745, adopted April 18, 2011, repealed the former paragraph (7) of Section 20-268(a) via omission.

(Ord. No. 429, § 2, 11-4-86; Ord. No. 711, § 3, 9-4-07; Ord. No. 745, § 1, 4-18-11; Ord. No. 751, §§ 3 - 4, 10-17-11; Ord. No. 922, § 1, 2-21-23)

SECTION 20-269. FAILURE TO OBEY OR RETURN PARKING TICKET

It shall be unlawful for any owner or operator of any vehicle, or other person in charge thereof, to fail to obey the provisions of any parking ticket placed on such vehicle. It shall be unlawful for any such owner, operator or other person in charge of any vehicle to fail to pay the fine or penalty stated on said ticket or otherwise contact the appropriate law enforcement person or agency within the time stated on said ticket. Violation of this section shall result in a minimum twenty five dollar ($25.00) fine, in addition to the fine or penalty amount stated on the parking ticket. Any subsequent violation of this section occurring within six (6) months of a prior violation of this section shall result in a minimum seventy dollar ($75.00) fine, in addition to the fine or penalty amount stated on the subsequent parking ticket. This section shall apply to all parking or similar tickets or citations issued for vehicles unlawfully parked, parked or stopped in violation of any city ordinance or state statute, or vehicles obstructing snow removal, or illegally parked during any applicable snow conditions, in violation of city ordinances.

(Ord. No. 478, § 1, 11-19-91; Ord. No. 922, § 1, 2-21-23)

SECTION 20-270. UNAUTHORIZED PARKING IN HANDICAPPED SPACE

Except when otherwise directed by a law enforcement officer or official traffic control device, no driver, operator, owner or other person in control of any vehicle shall cause, allow or permit any vehicle to stop, stand or park in any area on public or private property designated as reserved for the physically handicapped, unless the vehicle is properly displaying a serially numbered certificate or special license plate authorizing the vehicle to be parked in such space. Violation of this section shall be a Class 2 misdemeanor and the fine for violation shall be as specified by the state recommended fine schedule.
(Ord. No. 537, § 7, 5-7-96)

SECTIONS 20-271 – 20-277. RESERVED

ARTICLE XV. SNOWMOBILES*

***State law reference(s)--** Snowmobile operation, SDCL 1967, Ch. 32-20A.

SECTION 20-278. DEFINITIONS

The following words and phrases, when used in this article, shall have the meanings respectively ascribed to them:

Operate shall mean to control the operation of a snowmobile.

Owner shall mean any person, other than a lienholder, having the property in or title to a snowmobile and entitled to the use or possession thereof.

Private property shall mean and include any and all real property, or land within the city which has not been opened or decided for public use or as a public thoroughfare.

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

(Ord. No. 317, § 1, 11-18-75)

State law reference(s)--Similar definitions, SDCL 32-20A-1.

SECTION 20-279. OPERATOR'S LICENSE REQUIRED

No driver shall operate a snowmobile on a public street in the city without having in his possession a valid driver's license.

(Ord. No. 317, § 2, 11-18-75)

SECTION 20-280. TRAFFIC LAWS APPLICABLE

The operator of a snowmobile is required to obey the same traffic laws of the state and ordinances of the city, including street and road signs, as the operators of all other vehicles are required to obey.

(Ord. No. 317, § 2, 11-18-75)

SECTION 20-281. HOURS OF OPERATION

No person shall operate a snowmobile on private property of their own or another or upon public highways, streets and alleys within the city between the hours of 11:00 p.m. and 7:00 a.m., the following day.

(Ord. No. 317, § 2, 11-18-75)

SECTION 20-282. RESTRICTED AREAS OF OPERATION

No person shall operate a snowmobile in the business district of the city bounded by the west boundary of Clarke Avenue on the west, the east boundary of State Avenue on the east, the south boundary of Third Street on the south and the north boundary of Fourth Street on the north, nor upon Tenth Street between Clarke Avenue and Independent Order of Odd Fellows Home, nor upon Iowa Avenue between Ninth Street and Tenth Street, except for purposes of entering or leaving the corporate limits, and except at such times when such streets are impassable to automobile traffic by reasons of the presence of excessive snow.

(Ord. No. 317, § 2, 11-18-75; Ord. No. 502, § 1, 12-21-93)

SECTION 20-283. PERMISSION OF PROPERTY OWNER REQUIRED FOR OPERATION

No person shall operate a snowmobile on private property of another without the express permission to do so by the owner or occupant of such property.

(Ord. No. 317, § 2, 11-18-75)

SECTION 20-284. OPERATION ON PUBLIC GROUNDS

No person shall operate a snowmobile on any public property, including, but not limited to public school grounds, park property, playgrounds, recreational areas, golf courses, and parking lots; except that snowmobiles will be permitted on the Big Sioux River; and except that snowmobiles will be permitted in those areas specifically posted by signs allowing such presence.

(Ord. No. 317, § 2, 11-18-75; Ord. No. 502, § 2, 12-21-93)

SECTION 20-285. CROSSING STREETS AT RIGHT ANGLES

Persons operating snowmobiles are permitted to cross streets at right angles, but only may do so after stopping and yielding the right-of-way to all approaching traffic and crossing as closely as possible to an intersection or approach.

(Ord. No. 317, § 2, 11-18-75)

SECTION 20-286. SPEED

No person shall operate a snowmobile at a speed greater than is reasonable or proper, under all existing circumstances.

(Ord. No. 317, § 2, 11-18-75)

SECTION 20-287. CARELESS, RECKLESS OR NEGLIGENT OPERATION PROHIBITED

No person shall operate a snowmobile in a careless, reckless or negligent manner so as to be likely to endanger the person or property of another or to cause injury or damage thereto.

(Ord. No. 317, § 2, 11-18-75)

SECTION 20-288. LOUD NOISES PROHIBITED

No person shall operate a snowmobile in such manner as to create any loud, unnecessary or unusual noise likely to disturb or interfere with the peace and quiet of any other person.

(Ord. No. 317, § 2, 11-18-75)

SECTION 20-289. EMERGENCY USE

(a) The chief of police, director of civil defense or the mayor may declare that road or weather conditions are such as to constitute emergency travel conditions authorizing use of a snowmobile.

(b) A snowmobile may also be used when such vehicle is necessary as an emergency vehicle to protect the health, safety and welfare of any individual.

(c) The operator of a snowmobile under emergency conditions shall be subject to all existing traffic ordinances of the city and traffic laws of the state.

(Ord. No. 317, § 3, 11-18-75)

SECTION 20-290. EQUIPMENT REQUIRED

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

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

(2) Adequate brakes in good working condition;

(3) A safety or "deadman" throttle in operating condition, such being a device which when pressure is removed from the accelerator, the throttle causes the motor to disengage from the driving tract;

(4) At least one headlight and one taillight in good working condition.

(Ord. No. 317, § 4, 11-18-75)

SECTION 20-291. UNATTENDED VEHICLES

No owner or operator of a snowmobile shall leave or allow the snowmobile to be or remain unattended on public property or streets while the motor is running or where the keys for starting the vehicle are left in the ignition.
(Ord. No. 317, § 5, 11-18-75)

SECTION 20-292. SIDEWALK OPERATION PROHIBITED

No person shall operate a snowmobile upon any public sidewalk in the city.
(Ord. No. 317, § 6, 11-18-75)

Cross reference(s)--Streets, sidewalks and other public places, Ch. 19.

SECTION 20-293. OPERATION UNDER THE INFLUENCE

The operator of a snowmobile shall be deemed the driver or operator of a motor vehicle and is subject to SDCL ch. 32-23 relating to driving while under the influence of intoxicating liquor, drugs or otherwise therein provided and such operation shall be punishable for any violation of such laws.

(Ord. No. 317, § 7, 11-18-75)

SECTION 20-294. TOWING

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

(Ord. No. 317, § 8, 11-18-75)

SECTION 20-295. EXCEPTIONS

Notwithstanding the provisions of any other section, any governmental official in charge of public school grounds, park property, playgrounds, public golf courses, or parking lots shall have authority to supervise and regulate events or programs conducted thereon or to designate areas under his charge and supervision as recreation areas that he shall deem available for use of snowmobiles, and the hours of such use.

(Ord. No. 317, § 9, 11-18-75)

SECTIONS 20-296 – 20-306. RESERVED

ARTICLE XVI. BICYCLES

DIVISION 1. GENERALLY

SECTION 20-307. DEFINITION

As used in this article the term "bicycle" means every device propelled by human power, upon which any person may ride, and having two (2) tandem wheels, either of which is more than twenty (20) inches in diameter.

(Ord. No. 312, Art. I, § 1, 11-4-75)

SECTION 20-308. LIGHTS

Every bicycle upon any street during the period from one-half hour after sunset to one-half hour before sunrise, and at any other time when there is not sufficient light to render clearly discernible any person on the street at a distance of two hundred (200) feet ahead, shall be equipped with a lighted front lamp exhibiting a white light visible, under normal atmospheric conditions, from a distance of at least three hundred (300) feet to the front, and with a reflex mirror or lamp on the rear exhibiting a yellow or red light visible under like conditions, from a distance of two hundred (200) feet from such bicycle.

(Ord. No. 312, Art. I, § 2, 11-4-75)

SECTION 20-309. BRAKES

Every bicycle when operated upon a highway shall be equipped with a brake adequate to control the movement and to stop such bicycle whenever necessary.

(Ord. No. 312, Art. I, § 3, 11-4-75)

SECTION 20-310. TRAFFIC REGULATIONS GENERALLY

Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by the laws of this state declaring rules of the road applicable to vehicles or by the traffic ordinances of this city applicable to the driver of a vehicle, except as to special regulations of this article and except as to those provisions of such laws and ordinances which, by their nature, can have no application.

(Ord. No. 312, Art. III, § 1, 11-4-75)

SECTION 20-311. RIDERS TO OBEY TRAFFIC-CONTROL DEVICES; PROHIBITED TURNS

(a) Any person operating a bicycle shall obey the instructions of official traffic-control signals, signs and other control devices applicable to vehicles, unless otherwise directed by a police officer.

(b) Whenever authorized signs are erected indicating that no right or left or U-turn is permitted, no person operating a bicycle shall disobey the direction of any such sign, except where such person dismounts from the bicycle to make any such turn, in which event such person shall then obey the regulations applicable to pedestrians.

(Ord. No. 312, Art. III, § 2, 11-4-75)

SECTION 20-312. USE OF PERMANENT SEAT REQUIRED; CARRYING EXCESS PASSENGERS

(a) A person propelling a bicycle shall not ride other than astride a permanent and regular seat attached thereto.

(b) No bicycle shall be used to carry more persons at one time than the number for which it is designed or equipped.

(Ord. No. 312, Art. III, § 3, 11-4-75)

SECTION 20-313. CARRYING ARTICLES

No person operating a bicycle shall carry any package, bundle, or article which prevents the rider from keeping both hands on the handlebars.

(Ord. No. 312, Art. III, § 4, 11-4-75)

SECTION 20-314. INTERFERENCE WITH PEDESTRIANS

No person shall ride or propel any bicycle upon any street, in such manner as to interfere with any pedestrian thereon.

(Ord. No. 312, Art. III, § 5, 11-4-75)

SECTION 20-315. RIDING ON RIGHT SIDE OF ROADWAY

Every person operating a bicycle upon a roadway shall ride as near to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

(Ord. No. 312, Art. III, § 6, 11-4-75)

SECTION 20-316. RIDING MOR THAN TWO ABREAST

Persons riding bicycles shall not ride more than two (2) abreast, except on paths or parts of roadways set aside for the exclusive use of bicycles.

(Ord. No. 312, Art. III, § 7, 11-4-75)

SECTION 20-317. SPEED

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

(Ord. No. 312, Art. III, § 8, 11-4-75)

SECTION 20-318. RIDING ON CERTAIN SIDEWALKS PROHIBITED

It shall be unlawful for any person to ride a bicycle on any sidewalk abutting Fourth Street between Clark Avenue and State Avenue.

(Ord. No. 312, Art. III, § 9, 11-4-75; Ord. No. 456, § 1, 5-15-90)

Cross reference(s)--Streets, sidewalks and other public places, Ch. 19.

SECTION 20-319. CLINGING TO MOVING VEHICLES

No person riding upon any bicycle shall attach such bicycle or himself to any other moving vehicle upon any street.

(Ord. No. 312, Art. III, § 10, 11-4-75)

SECTION 20-320. PARKING

No person shall park a bicycle upon a street other than upon the roadway against the curb or upon the sidewalk in a rack to support the bicycle or against a building or at the curb, in such manner as to afford the least obstruction to pedestrian traffic.

(Ord. No. 312, Art. III, § 11, 11-4-75)

SECTION 20-321. PARENTS AND GUARDIANS NOT TO AUTHORIZE OR PERMIT ARTICLE VIOLATIONS

The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate any of the provisions of this article.
(Ord. No. 312, Art. III, § 12, 11-4-75)

Cross reference(s)--Minors generally, Ch. 14.

SECTIONS 20-322 – 20-327. RESERVED

DIVISION 2. REGISTRATION

SECTION 20-328. REQUIRED

Every bicycle owner shall list and register with the police department his name, address and the serial number, make, style, general description and register number of his bicycle.

(Ord. No. 312, Art. II, § 1, 11-4-75)

SECTION 20-329. RECORDS

The police department shall provide and keep at police headquarters a suitable record in which shall be entered the information required by this division.

(Ord. No. 312, Art. II, § 2, 11-4-75)

SECTION 20-330. FEE

The fee for the registration of each bicycle under the provisions of this division, and the issuance of the identification tag, shall be one dollar ($1.00).

(Ord. No. 312, Art. II, § 3, 11-4-75)

SECTION 20-331. INSPECTION

The police department shall have the authority to inspect all bicycles for mechanical fitness and may refuse to register, or revoke a registration, of any bicycle found to be in unsafe mechanical condition.

(Ord. No. 312, Art. II, § 4, 11-4-75)

SECTION 20-332. TAGS PROVIDED

The police department shall provide suitable identification tags upon which shall be marked or stamped a distinguishing register number for each bicycle registered.

(Ord. No. 312, Art. II, § 5, 11-4-75)

SECTION 20-333. DISPLAY OF TAG

The owner of each bicycle registered under the provisions of this division shall affix and maintain at a prominent position on the front of the bicycle the identification tag issued upon such registration.

(Ord. No. 312, Art. II, § 6, 11-4-75)

SECTION 20-334. DUPLICATES OF TAGS

For the replacement of any lost or mutilated tag issued under this division, a new identification tag shall be issued upon payment of a fee of one dollar ($1.00) and the original registration shall be deemed cancelled.

(Ord. No. 312, Art. II, § 7, 11-4-75)

SECTION 20-335. EXPIRATION

Each registration required by this division shall expire only on change of ownership.

(Ord. No. 312, Art. II, § 8, 11-4-75)

SECTION 20-336. TRANSFER GENERALLY

Upon the change of ownership of a bicycle registered under the provisions of this division, the identification tag shall stay with the bicycle and be transferred to the party assuming ownership. A transfer fee of one dollar ($1.00) shall be charged for such transfer.
(Ord. No. 312, Art. II, § 9, 11-4-75)

SECTION 20-337. REPORT OF TRANSFER

Every person who sells or transfers ownership of any bicycle shall report within ten (10) days of the date of such sale or transfer to the police department the name and address of the person to whom the bicycle was sold or transferred. The purchaser or transferee of such bicycle shall apply for a transfer of the registration thereof within ten (10) days of the sale or transfer.

(Ord. No. 312, Art. II, § 10, 11-4-75)

SECTIONS 20-338 – 20-348. RESERVED

ARTICLE XVII. ABANDONED, WRECKED, DISMANTLED OR INOPERATIVE MOTOR VEHICLES*

***Cross reference(s)--**Disposition of abandoned property, § 17-16 et seq.

State law reference(s)--Abandoned vehicles, SDCL 32-30-12 et seq.

SECTION 20-349. DEFINITIONS

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

Abandoned motor vehicle is any motor vehicle which is left unattended on any public street, alley, public place or parking lot within the city for a longer period than twenty-four (24) hours without notifying the chief of police and making arrangements for the parking of such motor vehicle.

Junked motor vehicle is any motor vehicle which does not have lawfully affixed thereto both an unexpired license plate or plates and a current motor vehicle safety inspection certificate, or the condition of which is wrecked, dismantled, partially dismantled, inoperative or discarded.

Motor vehicle is any vehicle which is self-propelled and designed to travel along the ground and shall include, but not be limited to automobiles, buses, motor-bikes, motorcycles, motorscooters, trucks, tractors, go-carts, golf-carts, campers and trailers.

Private property shall mean any real property within the city which is privately owned and which is not public property.

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

SECTION 20-350. STORING, PARKING OR LEAVING DISMANTLED OR OTHER SUCH MOTOR VEHICLES DECLARED NUISANCE; EXCEPTIONS

The presence of an abandoned, wrecked, dismantled, inoperative, junked or partially dismantled motor vehicle or parts thereof, on private or public property is hereby declared a public nuisance which may be abated as such in accordance with the provisions of this article. This section shall not apply to any motor vehicle enclosed within a building on private property or to any motor vehicle held in connection with a business enterprise, lawfully licensed by the city and properly operated in the appropriate business zone, pursuant to the zoning laws of the city and all other applicable City ordinances, or to any motor vehicle in operable condition specifically adapted or designed for operation on drag strips or raceways and protected by an appropriate fence or building to screen it from view that remains on private property, or any motor vehicle retained on private property by the owner for antique collection purposes and protected by an appropriate fence or building to screen it from view, or to any motor vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the city or authorized by the city.

(Ord. No. 551, § 1, 7-15-97)

SECTION 20-351. STORING, PARKING OR LEAVING DISMANTLED OR OTHER SUCH VEHICLES ON PUBLIC PROPERTY PROHIBITED

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

SECTION 20-352. REMOVAL

Whenever any police officer finds an abandoned motor vehicle or an unattended motor vehicle which is in a wrecked, dismantled, inoperative, junked or partially dismantled condition on public property within the city, he is hereby authorized to provide for the removal of such motor vehicle to a garage or place of safety. A motor vehicle which causes an obstruction and hazard to traffic may be removed at any time under the direction of the police department.

SECTION 20-353. NOTICE TO OWNER

The city or its authorized representative shall send written notice by certified mail to the registered owner, if any, of the vehicle, and to all readily identifiable lien holders of record at their last known address, of the removal and storage of the vehicle, identifying the vehicle with specificity, and the place where the vehicle is being held, and shall inform the owner and lien holders of their right to reclaim the vehicle.

If it is impossible to determine with reasonable certainty the identity and address of the registered owner and all lienholders, the notice shall be published once in a newspaper of general circulation in the area where the motor vehicle was abandoned or wrecked. Published notices may be grouped together for convenience and economy.

(Ord. No. 537, § 8, 5-7-96)

SECTION 20-354. RECLAMATION OF MOTOR VEHICLE

The record holder of title or the lien holder may reclaim the motor vehicle. The lien holder and record holder of title shall notify the city finance officer in writing within thirty (30) days of their intent to reclaim the motor vehicle.

(Ord. No. 540, 7-2-96)

Editor's note--Ord. No. 540, adopted July 2, 1996, amended §§ 20-354--20-357 in their entirety to read as herein set out. Prior to amendment, said sections pertained to sale of unclaimed motor vehicle, notice of sale, lien for costs, and when title may vest in city, respectively, and derived unamended from the original Code.

SECTION 20-355. VESTING OF TITLE IN CITY AFTER NOTICE SENT

If the record holder of title or the lien holder fails to claim and remove the motor vehicle within a period of thirty (30) days from the date on which notice was sent pursuant to section 20-353, title to the vehicle shall be irrevocably vested in the city.

(Ord. No. 540, 7-2-96)

Note--See the editor's note following § 20-354.

SECTION 20-356. LIEN FOR COSTS

The sheriff, peace officer or towing agency taking custody of an abandoned or wrecked vehicle under the provisions of this article, shall have a possessory lien thereon for the reasonable costs in taking custody and storing of said vehicle.

(Ord. No. 540, 7-2-96)

Note--See the editor's note following § 20-354.

SECTION 20-357. DISPOSITION

Any vehicle acquired by the city under the authority of this article may be disposed of in any manner as provided by the city council.
(Ord. No. 540, 7-2-96)

Note--See the editor's note following § 20-354.

SECTION 20-358. DUTY OF PRIVATE PROPERTY OWNERS

No person owning, in charge of or in control of any real property within the city, whether as owner, tenant, occupant, lessee or otherwise, shall allow any abandoned, wrecked, dismantled, inoperative, junked or partially dismantled motor vehicle of any kind to remain on such property longer than fourteen (14) days.

SECTION 20-359. NOTICE TO REMOVE

Whenever it comes to the attention of the police department that any person has an abandoned, wrecked, dismantled, inoperative, junked or partially dismantled motor vehicle on his property, a notice in writing shall be served upon such person requesting the removal of such motor vehicle in the time specified in this article.

SECTION 20-360. RESPONSIBILITY FOR REMOVAL

Upon proper notice, the owner of the abandoned, wrecked, dismantled, inoperative, 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.

SECTION 20-361. NOTICE PROCEDURE

The police department 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 registered mail to the owner or occupant of the private property at his last known address.

SECTION 20-362. CONTENT OF NOTICE

The notice shall contain the request for removal within fourteen (14) days after the mailing of such notice, and the notice shall advise that failure to comply with the notice to remove shall be a violation of this article.

SECTION 20-363. RACING OR ANTIQUE VEHICLES

No owner or occupant of private property shall have an uncovered motor vehicle in operable condition specifically adapted or designed for operation on drag strips or raceways or an uncovered motor vehicle retained on private property for antique collection purposes, all as defined by section 20-350.

SECTION 20-364. AUTOMOBILE JUNK YARDS REGULATED

It shall be unlawful for anyone to possess or have under their control a junk yard within the city, where junk, junked automobiles, parts thereof, or other worn out machinery of any kind is bought, sold or stored, without first having obtained a conditional use permit from the city for the operation of same. Said conditional use permit shall only be issued when the applicant has demonstrated that such junk yard does not constitute a hazard to the health and welfare of the resident's of the city, that adequate rodent control is in place, that the junk yard is shielded from public view and there are no present physical dangers to the safety and well-being of children and other citizens of the City.

(Ord. No. 551, § 2, 7-15-97)

SECTION 20-365. PENALTY FOR VIOLATION

Any person violating any of the provisions of this chapter shall be guilty of a municipal ordinance violation punishable by a fine not to exceed two hundred dollars or by imprisonment not to exceed thirty days or by both such fine and imprisonment, and each and every day that the violation continues shall constitute a separate offense.

(Ord. No. 551, § 3, 7-15-97)

SECTIONS 20-366 – 20-399. RESERVED

ARTICLE XVIII. OFF ROAD VEHICLES

SECTION 20-400. DEFINITIONS

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

OFF-ROAD VEHICLES: means any self-propelled, two or more wheeled vehicle designed primarily to be operated on land other than a highway and includes, but is not limited to, all-terrain vehicles, dirt bikes, dune buggies, and any vehicle whose Manufacturer's Statement of Origin (MSO) or Manufacturer's Certificate of Origin (MCO) states that the vehicle is not for highway use. Off-road vehicle does not include a farm vehicle as defined in SDCL § 32-3-2.4. (Definition provided by SDCL § 32-20-1(4)).

UTILITY: means any provider of electric, gas, water, sewer, pipeline, or telecommunications service.

NORMAL AGRICULTURAL OPERATION: means operation of an off-road vehicle by a person engaged in a reasonably necessary agricultural related activity.

SECTION 20-401. REGULATIONS

A. PROHIBITION

Off-road vehicles shall not be operated in the City limits of the City of Dell Rapids unless licensed as a motorcycle to be used on a public highway pursuant to SDCL § 32-20-13 and provided that such vehicle is only operated on the paved portion of streets or highways within the City limits of Dell Rapids.

B. EXCEPTIONS

This Ordinance does not prohibit off-road vehicles from being operated off the paved portion of streets or highways within the City limits of Dell Rapids:

1. While on private property with the owner's permission;
2. While engaged in normal agricultural operations; or
3. While engaged in official maintenance activities for the City of Dell Rapids or any utility company.

C. SIGNAGE

The Public Works Director or his designee is responsible for posting and maintaining regulatory signs giving notice to the public or any restriction authorized by this Ordinance. Each regulatory sign shall be constructed according to the Manual on Uniform Traffic Control Devices and be posted in such a manner as to indicate to the public the nature and location of the restriction.

SECTION 20-402. VIOLATIONS

In addition to any other penalty authorized by State law or City ordinance, each violation of this Ordinance subjects the individual to a fine of two hundred ($200.00) dollars and/or imprisonment for a period not to exceed thirty (30) days.
(Ord. No. 739, § 1, 4-19-10)

SECTIONS 20-403 – 20-409. RESERVED

Editor's note--Ord. No. 781, § 1, adopted December 16, 2013, amended the Code by addition of provisions numbered as Art. XIX, §§ 20-410—20-418. As a result, the numbers between Art. XVIII §§ 403 and 409 have been deemed reserved at the city's direction.

ARTICLE XIX. GOLF CARTS ON CITY STREETS

SECTION 20-410. DEFINITIONS

For purposes of this Article, the following words shall have the following meanings:

1. "Golf Cart" – A four wheeled vehicle originally and specifically designed and intended to transport one or more individuals and golf clubs for the purpose of playing the game of golf on a golf course. (SDCL 32-14-13)

2. "Operator" – Every person who operates or is in actual physical control of a golf cart.

(Ord. No. 781, § 1, 12-16-13)

SECTION 20-411. GOLF CART OPERATION

Golf carts shall not be allowed to operate within the City except as authorized by state statute or by this Article. Golf carts properly permitted pursuant to this Article shall be allowed to travel on the roadway portion of public streets, alleys and other roadways within the City except those highways where golf carts are prohibited by state statute. An operator of a golf cart shall comply with all City and state traffic rules and regulations applying to vehicles generally, and except that a golf cart shall not be required to have a bell, horn or directional signals.

Permits shall not be required for golf carts on the Rock Run Golf Course that are using the 10'(foot) Cart Path Access Easement between Lots 15B and 16A and between Lots 5B and 6A in Block 10 of the Spruce Glen Addition to cross Sandtrap Circle at a 90 degree angle or for those golf carts on the Rock Run Golf Course that are using the sidewalk along the north side of Par Lane to travel between the hole number 7 green and the hole number 8 tee box ."

(Ord. No. 781, § 1, 12-16-13; Ord. No. 800, § 1, 6-16-14)

SECTION 20-412. OPERATION OF GOLF CART ON STATE OR COUNTY HIGHWAY OR BIKE/WALKING TRAIL PROHIBITED

No person may operate a golf cart on a state or county highway except for crossing from one side of the highway to the other or on the bike/walking trail. A golf cart may cross the state or county highway at a right angle, but only after stopping and yielding the right-of-way to all approaching traffic and crossing as closely as possible to an intersection or approach. (SDCL 32-14-15)

(Ord. No. 781, § 1, 12-16-13)

SECTION 20-413. OPERATOR'S LICENSE AND INSURANCE

"No person may operate a golf cart on the streets, alleys, roadways or other public places within the City limits unless the operator has a valid driver's license and maintains proof that the golf cart is covered by a policy of liability insurance."

(Ord. No. 781, § 1, 12-16-13; Ord. No. 800, § 1, 6-16-14)

SECTION 20-414. PERMIT

"It shall be unlawful to operate a golf cart on the public streets, alleys and other roadways within the City unless the owner thereof has received a permit from the City of Dell Rapids. Upon submittal of proper application, the Finance Officer shall issue a permit sticker that shall be displayed in a readily identifiable location upon the golf cart. An individual applicant shall pay an annual fee of $5.00 per year. Permits shall be issued for a one year period, beginning on January 1st and ending on December 31st. If the ownership of the vehicle changes, the new owner shall be required to apply for a license. Permit fees and durations may be adjusted by resolution by the City Council. The licensure fee also applies to any permits that may have been issued prior to the revision of this ordinance."

(Ord. No. 781, § 1, 12-16-13; Ord. No. 800, § 1, 6-16-14)

SECTION 20-415. RESERVED

Editor's note--Ord. No. 800, § 2, adopted June 16, 2014, repealed former § 20-415 of the Code which pertained to slow-moving vehicle emblems and derived from Ord. No. 781, § 1, adopted December 16, 2013.

(Ord. No. 781, § 1, 12-16-13; Ord. No. 800, § 2, 6-16-14)

SECTION 20-416. OPERATING HOURS

The golf cart shall only be driven on City streets during daylight hours unless the golf cart has at least one operating tail light and head light.

(Ord. No. 781, § 1, 12-16-13)

SECTION 20-417. OPERATOR AND OCCUPANTS SEATED

While the golf cart is in motion, the operator and occupants shall be seated at all times and shall ride only upon the permanent and regular seat in the golf cart.
(Ord. No. 781, § 1, 12-16-13)

SECTION 20-418. VIOLATION OF GOLF CART OPERATION

Operating contrary to and in violation of this Article shall be deemed prohibited and any operator in violation shall be subject to a fine of $50.00. The operator of the golf cart found in violation of this Section may, within 72 hours of the time when the notice of violation was given, pay to the office of the City Finance Officer, as a fine for and in full satisfaction of the violation, the sum. If the operator fails to pay the sum within the 72-hour period, he or she may pay to the office of the City Finance Officer, within the next two weeks from the date of violation, as a fine for and in full satisfaction of the violation, the sum of $100.00. Upon failure of the owner or operator to pay either of the sums to the office of the City Finance Officer within the time periods indicated, and upon conviction of a violation of this Section, the owner or operator shall be fined not less than $100.00 nor more than $200.00 plus court costs, which fine shall be collected by the Magistrate Court. Any person claimed to be in violation also has the right to contest the charges or plead “not guilty” within the time periods indicated above, and have the matter transferred to Magistrate Court. The penalties in this Section may be adjusted by resolution of the City Council.

(Ord. No. 781, § 1, 12-16-13)

CHAPTER 21 – UTILITIES*

***Cross reference(s)--**Buildings and building regulations, Ch. 7; garbage and refuse, Ch. 11; health and sanitation, Ch. 12; streets, sidewalks and other public places, Ch. 19; floodplain management, App. A; subdivisions, App. D; franchises, App. E.

State law reference(s)--Municipal utilities in general, SDCL ch. 9-39.

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ARTICLE I. IN GENERAL

SECTION 21-1. DEFINITION

For the purposes of this chapter, the word "utility" shall be construed to mean and include water, sewer and/or any other utility service furnished by the city to consumers thereof.

SECTION 21-2. SCOPE OF CHATER PROVISIONS

All pertinent provisions of this chapter are hereby made a part of the terms and conditions whereby the city shall furnish any utility service to any person; or whereby the city shall make any utility connection or perform any work of any kind in connection with the furnishing of any utility service.

SECTION 21-3. SERVICE TO COMPLY WITH TECHNICAL REGULATIONS

Any utility service furnished under the provisions of this chapter shall be in accordance with and compliance with all applicable technical provisions of this Code, state law and city ordinances, rules and regulations.

SECTION 21-4. VIOLATION OF RULES, REGULATIONS

The violation of any rule or regulation promulgated by the city council for utility service supplied by the city shall be deemed as a misdemeanor.

SECTION 21-5. INSPECTIONS OUTSIDE CITY

In order to protect the city's utility systems, the city shall not make any taps or connection to such systems outside the city limits until the proposed customer's facilities and premises have been inspected and approved by the appropriate inspector of the city, which inspection shall be made only after deposit of the stipulated fee for such inspection.

SECTION 21-6. TERMINATION OF SERVICE AUTHORIZED

The city shall have the right to disconnect or refuse to connect or reconnect any utility service for the following reasons:

(1) Failure to meet the applicable provisions of law;

(2) Violation of the rules and regulations pertaining to utility service;
(3) Nonpayment of bills;

(4) Wilful or negligent waste of service due to improper or imperfect pipes, fixtures, appliances or otherwise;

(5) Molesting any meter, seal or other equipment controlling or regulating the supply of utility service;

(6) Theft or diversion or use of service without payment therefor;

(7) Vacancy of premises.

SECTION 21-7. LIABILITY OF CITY

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

SECTION 21-8. UTILITY SERVICE--APPLICATION REQUIRED

Any person desiring any utility service furnished by the city shall make application for the same to the appropriate utility department. Such application shall contain the applicant's name, address and the uses for which such service is desired. A separate application shall be made for each premise to be served. The applicant shall abide by the rules and regulations established by the city relative to utility service in effect at the time of his application and as they may be revised from time to time.

SECTION 21-9. SAME--NOT AVAILABLE TO DEBTORS

The city may decline or fail or cease to furnish utility service to any person who may be in debt to the city for any reason, except ad valorem taxes and special assessments.

SECTION 21-10. SAME--USE ASSUMED

All premises connected to any utility service of the city shall be assumed to be using such service and the owner or occupant shall be charged therefor as long as such premises shall remain connected with the utility service.

SECTION 21-11. RIGHT OF ENTRY

Any authorized inspector of the city shall have free access at any time to all premises supplied with any utility service by the city for the purpose of examination in order to protect the utility services from abusive use.

SECTION 21-12. DAMAGE, TRESPASS OF EQUIPMENT

It shall be unlawful for any person, not having authority to do so, to open any water hydrant or tamper with any utility service furnished by the city to consumers, or to in any other way molest, damage or trespass upon any equipment or premises belonging to the city connected with any utility service.

SECTION 21-13. UNLAWFUL USE

No person, other than employees of the city, shall be authorized to connect, turn on, turn off or disconnect any utility service offered by the city, or remove, replace or repair any equipment connected to any such utility service.

SECTION 21-14. INTERRUPTION OF SERVICE

Consumers of any utility service furnished by the city are hereby notified that the supply of such utility may be temporarily shut off at any time. Notice shall be given, if feasible, of the contemplated shutoff, but accidents may render this impossible; hence the city hereby warns those dependent upon the utility service for any purpose of this hazard. Immediately upon finding the

supply shutoff it becomes the duty of the occupant of the premises to take prompt precautions to prevent damages.

SECTION 21-15. SALE OF SERVICE BY CUSTOMER

It shall be unlawful for any person to resell any utility service obtained from the city to others except upon written agreement with the city council.

SECTION 21-16. CONNECTIONS TO SERVICE

Connections for any utility service furnished by the city shall be made only by the city. The fee for connection to any utility service shall be established by the city council and paid by the customer served.

(Ord. No. 562, § 1, 2-2-98)

SECTION 21-17. MAIN TO METER COSTS

All costs for utility service, including repairs or replacement of the line, incurred from the main to and including the stopcocks referred to in section 21-35, shall be the responsibility of the city. All costs for utility service, including repairs or replacement of the line, incurred from but excluding the stopcocks up to but excluding the meter shall be paid by the property owner.

(Ord. No. 392, § 1, 1-4-83)

SECTION 21-18. METERS

Meters for the measurement of utility services furnished by the city shall be approved and installed by the city, and shall remain the property of the city. The city shall be responsible for the repairs, maintenance and replacement of all meters, except in the event of accident or negligence caused by or attributable to the property owner; in which event, he shall be responsible for such repair, maintenance and replacement of the meter.

(Ord. No. 392, § 1, 1-4-83)

SECTION 21-19. RESTRICTING USE

The city hereby reserves the right to at any time restrict or prevent the use of any utility service furnished by the city during periods of emergency or circumstances demanding such restriction or prevention of use.

SECTION 21-20. EXTENSION OF LINES

The city may serve water or sewer customers outside the municipal corporate limits solely at the city's discretion. The water and sewer lines shall be constructed and maintained by the customer, with all parties connecting onto such lines being regulated and charged connection fees and other fees as set forth and regulated by the city.

SECTION 21-21. NEW WATER AND SEWER SERVICE; CONNECTION FEES

(a) The fee for connection to the municipal water system shall be based on the water meter size as follows:

¾" or 1" Meter …….. $ 600.00 (plus cost of meter & accessories)
1-½" Meter .....$ 900.00 (plus cost of meter & accessories)
2" Meter .....$ 1,500.00 (plus cost of meter & accessories)
3" Meter .....$ 3,000.00 (plus cost of meter & accessories)
4" Meter .....$ 5,400.00 (plus cost of meter & accessories)

Any meter upgrades will result in an additional water connection fee based on the difference from the rate for the current meter size to the new larger meter size plus the costs of the new meter and accessories.

(b) The fee for connection to the municipal sewage system shall be based on the water meter size as follows:

¾" or 1" Meter .....$ 400.00
1-½" Meter.....$ 600.00
2" Meter .....$ 1,000.00
3" Meter .....$ 2,000.00
4" Meter .....$ 3,600.00

Any water meter upgrades will result in an additional sewer connection fee based on the rate difference from the current water meter size to the new larger water meter size.

(Ord. No. 565, § 1, 3-16-98, Ord. No. 581, § 1, 6-21-99; Ord. No. 956, § 1, 4-20-26)

SECTIONS 21-22 – 21-31. RESERVED

ARTICLE II. WATER

SECTION 21-32. LAYING OF PIPES--HOW LAID

All water pipes, service pipes or mains must be laid on such a condition and depth in the ground so as to be protected at all times from injury by freezing and other damage or breakage.

(Ord. No. 128, § 130, 2-2-26)

SECTION 21-33. SAME--TEST FOR LEAKAGE BEFORE FILLING TRENCHES

No person or plumber shall allow any ditch or trench to be filled before the pipe in such trench shall have been tested for leakage by turning on the water at the stopcock and found to be watertight.

(Ord. No. 128, § 136, 2-2-26)

SECTION 21-34. WATERCOCKS AND SHUTOFFS REQUIRED

Each water service pipe or service to a property owner or lot holder or occupant thereof shall be provided with a stop waste cock for each consumer, easily accessible and so situated that the water can be conveniently shut off and drained from the pipe at any time that may be necessary.
(Ord. No. 128, § 132, 2-2-26)

SECTION 21-35. LOCATION OF STOP BOXES

Unless otherwise permitted, stopcocks shall be placed in the water service pipe at the edge of the sidewalk inside the curbline and protected by a box or iron pipe.

(Ord. No. 128, § 133, 2-2-26)

SECTION 21-36. REPAIR OF SERVICE PIPES FROM MAIN TO METER

The property owner, lot holder or occupant thereof shall be chargeable with the upkeep and repair of the water service pipe from, but excluding, the stopcock up to, but excluding, the meter, as more fully described in section 21-17.

(Ord. No. 128, § 134, 2-2-26; Ord. No. 392, § 2, 1-4-83)

SECTION 21-37. WATER RATES

The Dell Rapids City Council shall, from time to time, establish water rates and surcharges by resolution.

(Ord. No. 271, § 1, 7-18-72; Ord. No. 366, § 1, 10-21-80; Ord. No. 389, § 1, 11-16-82; Ord. No. 406, § 1, 1-15-85; Ord. No. 424, § 1, 5-6-86; Ord. No. 440, § 1, 6-7-88; Ord. No. 465, § 1, 9-4-90; Ord. No. 486, § 1, 8-4-92; Ord. No. 500, § 1, 11-2-93; Ord. No. 573, § 1, 12-7-98; Initiated Ord. No. 586, § 1 & 2, 12-20-99; Ord. No. 610, § 1, 12-18-00; Ord. No. 612, § 1, 2-5-01; Ord. No. 671, § 1, 11-15-04; Ord. No. 687, § 1, 12-5-05; Ord. No. 718, § 1, 8-4-08; Ord. No. 732, § 1, 10-19-09; Ord No. 747, § 1, 5-2-11; Ord. No. 754, § 1, 11-21-11; Ord. No. 812, § 1, 11-17-14; Ord. No. 835, § 1, 7-5-16; Ord. No. 852, § 1, 12-18-17; Ord. No. 861, § 1, 2-19-19; Ord. No. 930, § 1, 1-2-24; Ord. No. 939, § 1, 12-16-24; Ord. No. 953, § 1, 3-2-26)

SECTION 21-38. BILLING AND DELINQUENCIES

Bills for water consumption or usage shall be sent out at or about the twenty-fifth (25^{th}) day of each month, with the due date thereof being on the twentieth (20^{th}) day of the following month. All meters shall be read in sufficient time to allow bills to be prepared for electronic mail or mail. The city shall have the meters read as often as possible; however, in the days between city meter readings, the meter may be read by the consumer. If the automated meter reading system is unable to read the meters at the time of billing, the bills shall either be estimated or an alternative method may be used, as determined by the office of the municipal finance officer. Any bill not paid on or before the twentieth (20^{th}) day of the month shall be considered delinquent and shall incur a late charge of twenty dollars ($20.00) per month or fraction thereof until fully paid.

(Ord. No. 271, § 2, 7-18-72; Ord. No. 424, § 2, 5-6-86; Ord. No. 746, § 1, 5-2-11; Ord. No. 929, 1-2-24; Ord. No. 953, § 1, 3-2-26)

SECTION 21-39. DEPOSIT

A deposit of Two Hundred Twenty-Five Dollars ($225.00) is required from all tenants of rental property who request utility service from the City. A tenant who defaults on a water and sewer utility obligation shall be required to establish and maintain a $225.00 deposit with the City before water service is restored to the premises.

(Ord. No. 271, § 3, 7-18-72; Ord. No. 389, § 2, 11-16-82; Ord. No. 465, § 2, 9-4-90; Ord. No. 573, § 2, 12-7-98; Ord. No. 825, § 1, 12-7-15; Ord. No. 955, § 1, 5-1-26)

SECTION 21-40. DISCONTINUANCE OF SERVICE AND RECONNECTION

In the event a delinquent account has not been paid before the first Monday of the second month following the due date, public works shall be notified and water will automatically be shut off. Water shall not be turned on until payment of all the arrears, together with the additional sum of fifty dollars ($50.00) to cover the expense of shutting off, turning on the water or attempting to shut off the water. Prior to being shut off, payment arrangements can be made with the Finance Officer. If this Monday is a holiday, then shut off will occur on Tuesday. The public works

department may also shut off the water to any premises upon the request of the user or owner of the premises.

(Ord. No. 271, § 4, 7-18-72; Ord. No. 389, § 3, 11-16-82; Ord. No. 424, § 3, 5-6-86; Ord. No. 500, § 2, 11-2-93; Ord. No. 573, § 3, 12-7-98; Ord. No. 953, § 1, 3-2-26)

SECTION 21-41. AUTHORITY TO REGULATE WATER USAGE

Pursuant to and in conformity with SDCL 9-47-1, as amended, the mayor and city council of the city, and its designated officers and employees as hereinafter more specifically provided, shall have the authority to regulate the distribution and use of water supplied by said city.

(Ord. No. 411, § 1, 6-4-85)

SECTION 21-42. NONESSENTIAL, PROHIBITED USES

The following water uses are hereby determined and declared to be nonessential and are hereby absolutely prohibited:

(1) The leaking or escaping of water from defective pipes, hoses or other plumbing after learning of the same and failing to repair the same after the lapse of sufficient time in which repairs should have been reasonably made.

(2) Swimming and wading pools, other than small children's pools, not using a filter and recirculating system.

(3) Ornamental fountains and similar water usages not using a recirculating system.

(4) The washing or cleaning of dwellings, buildings and other structures, whether inside or out, sidewalks, driveways, streets, porches, filling station aprons and all other surfaces except by container not exceeding three-gallon capacity or from a hose equipped with a nozzle or shutoff device on the end so that the flow can be easily and quickly turned off.

(5) The washing of automobiles, trucks, trailers, trailer houses, railroad cars or any other mobile equipment (except when required by health and sanitation requirements) except by a container not exceeding a three-gallon capacity or from a hose equipped with a nozzle or shutoff device on the end so that the flow can be easily and quickly turned off. This subparagraph (5) shall not apply to commercial business carwashes and similar facilities operated at fixed locations.

(Ord. No. 411, § 1, 6-4-85)

SECTION 21-43. REGULATED, RESTRICTED AND TEMPORARILY PROHIBITED USES

To ensure a good quality and a sufficient quantity of water for essential uses thereof for persons and entities using water distributed by the city, and especially in times of shortage from whatever cause, the following usages, upon the passage and publication of a resolution of the city council providing for the use and withdrawal of water by any person, or in an emergency situation upon a concurrence of the mayor, the public works director, and the city administrator, any or all of the following purposes may be regulated or prohibited as follows:

(a) The sprinkling or watering of lawns, yards or grass as follows:

(1) Consumers having even-numbered addresses may water on even-numbered calendar dates and consumers having odd-numbered addresses may water on odd-numbered calendar dates; or

(2) Consumers having even-numbered addresses may water on certain specified days of each month and consumers having odd-numbered addresses may water on certain other specified days of each month; or

(3) Consumers may water only on one day of each week. Each consumer's permitted watering day and time shall be as determined by resolution of the city council; or

(4) Consumers may water only on two days during each week. Each consumer's permitted watering days and times shall be as determined by resolution of the city council; or

(5) Such other regulated uses as the mayor, public works director, and city administrator shall agree upon; or

(6) Prohibited;

(b) The sprinkling or watering of shrubbery, bushes, trees, plants, flowers, ground cover vegetation, vines, gardens or other vegetation may be similarly regulated or prohibited;

(c) The use of swimming or wading pools;

(d) The use of ornamental fountains and other similar devices;

(e) The washing of dwellings, buildings and other structures, whether inside or out, sidewalks, driveways, streets, porches, filling station aprons and other surfaces;

(f) The washing of automobiles, trucks, trailers, trailer houses, railroad cars or any other mobile equipment (except when required by health and sanitation requirements), except commercial business car washes and similar facilities operated at fixed locations; and

(g) Any other water usage deemed to unnecessarily or unreasonably interfere with water uses deemed essential to the health, safety and well-being of the residents of the city and the consumers of the city's water distribution system.

(Ord. No. 411, § 1, 6-4-85, Ord. No. 596, § 1, 4-17-00)

SECTION 21-44. NOTICE OF RESTRICTIONS OR PROHIBITIONS

(a) Upon the passage of a resolution of the city council, the city administrator shall give notice to the public and to the consumers of the city's water distribution system, in a manner reasonably anticipated to apprise those persons of quick and reasonable notice of the regulation, restriction or prohibition.

(b) Notice may be given in one or more of the following ways: by publication in a newspaper or newspapers circulated in the City of Dell Rapids; by broadcast over any local cable television channel within the city; by announcement over any radio or television channel that is widely received by persons in the city or in the surrounding area; or by any other means reasonably calculated to give notice to the consumers of the city's water distribution system.

(Ord. No. 411, § 1, 6-4-85, Ord. No. 596, § 2, 4-17-00)

SECTION 21-45. EXCEPTION PERMITS

(a) Upon written application by the water user, or otherwise at the direction of the city council, at a regular or special meeting thereof, the water or utilities superintendent may grant an exception permit for water uses restricted or prohibited, if he finds that the restrictions or prohibitions:

(1) Would cause unnecessary or unreasonable economic or other hardship on the applicant or on others; or

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

(b) Any water user having his or her application for an exception permit denied may appeal the denial to the next meeting of the city council, who shall have the final authority on the matter as to whether or not the exception permit shall be granted.

(c) The water or utilities superintendent, or on reversal on appeal the city council shall set the conditions and limitations of any exception permit.

(Ord. No. 411, § 1, 6-4-85)

SECTION 21-46. ENFORCEMENT

(a) Every police officer of the city shall enforce the provisions of sections 21-41 through 21-47, by any lawful means including the issuance of citations for any violation thereof.

(b) The water or utilities superintendent shall enforce the provisions of sections 21-41 through 21-47, by any lawful means, including the revocation of any exception permit on account of any violation of the conditions or limitations thereof, and the discontinuance of water service to any consumers on account of repeated violations of any restriction or prohibition.

(Ord. No. 411, § 1, 6-4-85)

SECTION 21-47. VIOLATIONS

Any person or entity violating any provisions of sections 21-41 through 21-47 or violating any lawful determination of the mayor, water or utilities superintendent and the water or utilities committee, as outlined in section 21-43, shall be deemed guilty of a Class 2 misdemeanor. Each day such violation is committed or permitted shall constitute a separate offense and subsequent violations or convictions shall result in increased fines on account of repeat offenses.

(Ord. No. 411, § 1, 6-4-85)

SECTION 21-48. COLLECTIONS

All charges for water usage shall be a charge against the owner, lessee and occupant of the premises, and if such charges shall not be paid when due, the city shall have the right to disconnect water service to the premises and to collect the delinquent charges. Any charges, and any interest and penalties thereon, for water delivered to any real property within the city or under its jurisdiction, which are due and unpaid on the first day of October of each year may be certified by the city municipal finance officer to an approved Collection Agency in the manner provided by applicable state statute, and all amounts so certified shall be payable and delinquent at the same time and incur penalty and interest and shall be collected by the Collection Agency.

(Ord. No. 688, § 1, 12-19-05; Ord. No. 848, § 1, 11-06-17)

SECTIONS 21-49 – 21-51. RESERVED

ARTICLE III. SEWER*

***Editor's note--**Section 1 of Ord. No. 522, adopted Feb. 7, 1995, amended this article to read as herein set out. Formerly, this article consisted of §§ 21-52--21-66, which pertained to sewage disposal system and derived from §§ 1--16 of Ord. No. 313, adopted Nov. 4, 1975, as amended. See Code Comparative Table for completed derivation of former Art. III.

SECTION 21-52. DEFINITIONS

Unless the context specifically indicates otherwise the meaning of the terms used in this article shall be as follows:

Biochemical oxygen demand (BOD) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees Centigrade, expressed in milligrams per liter.

Building drain shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (one and five-tenths (1.5) meters) outside the inner face of the building wall.

Building sewer shall mean the extension from the building drain to the public sewer or other place of disposal, also called house connection.

Combined sewer shall mean a sewer intended to receive both wastewater and storm or surface water.

Easement shall mean an acquired legal right for the specific use of land owned by others.

Floatable oil is oil, fat, or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved treatment facility. A wastewater shall be considered free of floatable fat if it is properly pretreated and the wastewater does not interfere with the collection system.

Garbage shall mean the animal and vegetable waste resulting from the handling, preparation, cooking, and serving of foods.

Industrial wastes shall mean the wastewater from industrial processes, trade, or business as distinct from domestic or sanitary wastes.

Natural outlet shall mean any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

May is permissive.

Person shall mean any individual, firm, company, association, society, corporation, or group.

pH shall mean the logarithm of the reciprocal of the hydrogen-ion concentration. The concentration is the weight of hydrogen ions, in grams, per liter of solution. Neutral water, for example, has a pH value of 7 and a hydrogen-ion concentration of 10^{-7}.

Properly shredded garbage shall mean the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch (one and twenty-seven hundredths (1.27) centimeters) in any dimension.

Public sewer shall mean a common sewer controlled by a governmental agency or public utility.

Sanitary sewer shall mean a sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions together with minor quantities of ground, storm, and surface waters that are not admitted intentionally.

Sewage is the spent water of a community. The preferred term is "wastewater" hereinafter defined.

Sewer shall mean a pipe or conduit that carries wastewater or drainage water.

Shall is mandatory.

Slug shall mean any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four-hour concentration or flows during normal operation and shall adversely affect the collection system and/or performance of wastewater treatment works.

Storm drain (sometimes termed "storm sewer") shall mean a drain or sewer for conveying water, groundwater, subsurface water, or unpolluted water from any source.

Superintendent shall mean the superintendent of wastewater facilities, and/or of wastewater treatment works, and/or of water pollution control of the city, or his authorized deputy, agent or representative.

Suspended solids shall mean total suspended matter that either floats on the surface of, or is in suspension in water, wastewater, or other liquids, and that is removable by laboratory filtering as described in "Standard Methods for the Examination of Water and Wastewater" and referred to as nonfilterable residue.

Unpolluted water is water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

Wastewater shall mean the spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings,

industrial plants, and institutions, together with any groundwater, surface water, and stormwater that may be present.

Wastewater facilities shall mean the structures, equipment, and processes required to collect, carry away, and treat domestic and industrial wastes and dispose of the effluent.

Wastewater treatment works shall mean an arrangement of devices and structures for treating wastewater, industrial wastes, and sludge. Sometimes used as synonymous with "waste treatment plant" or "wastewater treatment plant" or "water pollution control plant."

Watercourse shall mean a natural or artificial channel for the passage of water either continuously or intermittently.

(Ord. No. 522, § 1, 2-7-95)

SECTION 21-53. USE OF PUBLIC SEWERS REQUIRED

(a) *Deposit of waste.* It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the city or in any area under the jurisdiction of the city, any human or animal excrement, garbage, or other objectionable waste.

(b) *Water pollution.* It shall be unlawful to discharge to any natural outlet within the city, or in any area under the jurisdiction of the city, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this article.

(c) *Systems permitted.* Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater.

(d) *Connection to sewer.* The owner of every house, building or property used for human occupancy, employment, recreation, or other purposes, situated within the city and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the city, is hereby required, at the owner's expense, to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this article, within thirty (30) days after notice to do so, provided that said public sewer is within two hundred (200) feet of the property line. If the owner fails to provide such sewer after notice to do so, the city shall provide for the installation of such sewer and charge the cost against the property as a special assessment.

(Ord. No. 522, § 1, 2-7-95)

SECTION 21-54. BUILDING SEWERS AND CONNECTIONS

(a) Where a public sanitary or combined sewer is not available under the provisions of section 21-53(d) above, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this section.

(b) *Fee.* Before any connection is made to the municipal sewage system an application for such connection must be made to the municipal finance officer and the requisite connection fee as established by the city council shall be submitted with the application.

(c) A permit for a private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the superintendent. The superintendent shall be allowed to inspect the work at any stage of construction, and, in any event, the applicant for the permit shall notify the superintendent when the work is ready for final inspection, and before any underground portions are covered.

(d) The type, capacity, location, and layout of a private wastewater disposal system shall comply with all regulations of applicable state agencies. No permit shall be issued for any private wastewater disposal system employing subsurface soil absorption facilities where the area of the lot is less than that required by the superintendent. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

(e) At such time as a public sewer becomes available to a property served by a private wastewater disposal system, a direct connection shall be made to the public sewer within sixty (60) days of such availability or otherwise as directed by the city, and any septic tanks, cesspools, and similar private wastewater disposal facilities shall be cleaned of sludge and filled with suitable material.

(f) The owner(s) shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the city.

(g) Nothing contained in this section shall prohibit the superintendent or city from specifying other requirements in conjunction with any private wastewater disposal.

(h) Any privy, septic tank, cesspool or other such facility intended or used for the disposal of sewage which is constructed or maintained in violation of any of the provisions of this section is declared to be a public nuisance and the city may abate the same in any manner provided by law.

(Ord. No. 522, § 1, 2-7-95; Ord. No. 562, § 2, 2-2-98)
Editor's note--Ord. No. 562, § 2, adopted February 2, 1998, renamed Sec. 21-54 from “Private Wastewater Disposal” to “Building sewers and connections”.

SECTION 21-55. SANITARY SEWERS, BUILDING SEWERS AND CONNECTIONS

(a) No person shall uncover, make any connections with or opening into, build, repair, extend, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the superintendent.

(b) There shall be two (2) classes of building sewer permits: (a) for residential and commercial service, and (b) for service to establishments producing industrial wastes. In either case, the owner or his agent shall make application on a special form furnished by the city. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the superintendent. A permit and inspection fee of ten dollars ($10.00) for a residential or commercial building sewer permit and twenty-five dollars ($25.00) for an industrial building sewer permit shall be paid to the city at the time the application is filed.

(c) All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(d) A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer, but the city does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection aforementioned.

(e) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the superintendent, to meet all requirements of this article.

(f) The size, slope, alignment, materials of construction of all sanitary sewers including building sewers, and the methods to be used in excavating, 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. In the absence of suitable code provisions 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.

(g) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

(h) No person shall make connection of roof downspouts, foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer unless such connection is approved by the superintendent for purposes of disposal of polluted surface drainage.

(i) The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city, or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual of Practice No. 9. All such connections shall be made gastight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the superintendent before installation.

(j) The applicant for the building sewer permit shall notify the superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the superintendent or his representative.

(k) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

(Ord. No. 522, § 1, 2-7-95)

SECTION 21-56. USE OF THE PUBLIC SEWERS

(a) No person shall discharge or cause to be discharged any stormwater, surface water, roof runoff, ground water, subsurface drainage, cooling water or unpolluted industrial process waters into any sanitary sewer without first obtaining a written permit from the city. In addition, no person shall connect or allow the connection of a sump pump or similar device to a drain or other receptacle to any sanitary sewer, nor shall any person run a hose or similar device from a sump pump to a drain or other receptacle to any sanitary sewer, nor shall any person otherwise position a sump pump in such a manner such that it may pump or direct water to a drain or other receptacle to any sanitary sewer.

(b) All such stormwater as described above, shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved or designated by the city.

(c) No person shall discharge or cause to be discharged any of the following described water or wastes to any public sewers:

(1) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas;

(2) Any waters containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the wastewater treatment plant;

(3) Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the wastewater works; and

(4) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the wastewater facilities such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

(d) The following described substances, materials, waters, or waste shall be limited in discharges to municipal systems to concentrations or quantities which will not harm either the sewers, wastewater treatment process or equipment, will not have an adverse effect on the receiving stream, or will not otherwise endanger lives, limb, public property or constitute a nuisance. The superintendent may set limitations lower than the limitations established in the regulations below if in his opinion such more severe limitations are necessary to meet the above objectives. In forming his opinion as to the acceptability, the superintendent will give consideration to such factors as the quantity of subject waste in relation to flows and velocities in the sewers, materials of construction of the sewers, the wastewater treatment process employed, capacity of the wastewater treatment plant, degree of treatability of the waste in the wastewater treatment plant, and other pertinent factors. The limitations or restrictions on materials or characteristics of waste or wastewaters discharged to the sanitary sewer which shall not be violated without approval of the superintendent are as follows:

(1) Wastewater having a temperature higher than one hundred fifty (150) degrees Fahrenheit (sixty-five (65) degrees Celsius);

(2) Wastewater containing more than twenty-five (25) milligrams per liter of petroleum oil, nonbiodegradable cutting oils, or product of mineral oil origin;

(3) Wastewater from industrial plants containing floatable oils, fat, or grease;

(4) Any garbage that has not been properly shredded (see section 21-52, definitions). Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments, or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers;

(5) Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances to such degree that any such material received in the composite wastewater at the wastewater treatment works exceeds the limits established by the superintendent for such materials;

(6) Any waters or wastes containing odor-producing substances exceeding limits which may be established by the superintendent;

(7) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulations;

(8) Quantities of flow, concentrations, or both which constitute a "slug" as defined herein;

(9) Waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed, or are amenable to treatment only to such degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters; and

(10) Any water or wastes which, by interaction with other waters or wastes in the public sewer system, release obnoxious gases, form suspended solids which interfere with the collection system, or create a condition deleterious to structures and treatment processes.

(e) If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in subsection (d) immediately above, and which in the judgment of the superintendent, may have a deleterious effect upon the wastewater facilities, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the superintendent may:

(1) Reject the wastes;

(2) Require pretreatment to an acceptable condition for discharge to the public sewers;

(3) Require control over the quantities and rates of discharge; and/or

(4) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of subsection (j) of this section 21-56.

When considering the above alternatives the superintendent shall give consideration to the economic impact of each alternative on the discharger. If the superintendent permits the

pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the superintendent.

(f) Grease, oil, and sand interceptors shall be provided when, in the opinion of the superintendent, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts as specified in subsection (d)(3) above, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors the owner shall be responsible for the proper removal and disposal by appropriate means of the captivated material and shall maintain records of the dates, and means of disposal which are subject to review by the superintendent. Any removal and hauling of the collected materials not performed by owner's personnel must be performed by currently licensed waste disposal firms.

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

(h) When required by the superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable structure together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such structures, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the superintendent. The structure shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

(i) The superintendent may require a user of sewer services to provide information needed to determine compliance with this article. These requirements may include:

(1) Wastewaters discharge peak rate and volume over a specified time period;

(2) Chemical analyses of wastewaters;

(3) Information on raw materials, processes, and products affecting wastewater volume and quality;

(4) Quantity and disposition of specific liquid, sludge, oil, solvent, or other materials important to sewer use control;

(5) A plot plan of sewers of the user's property showing sewer and pretreatment facility location;

(6) Details of wastewater pretreatment facilities; and

(7) Details of systems to prevent and control the losses of materials through spills to the municipal sewer.

(j) All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this article shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association. Sampling methods, location, times, durations, and frequencies are to be determined on an individual basis subject to approval by the superintendent.

(k) Nothing contained in this section 21-56 shall be construed as preventing any special agreement or arrangement between the city and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the city for treatment.

(Ord. No. 522, § 1, 2-7-95)

SECTION 21-57. SUMP PUMP INSTALLATION

All sump pumps or similar devices designed or used to pump water or liquid, when installed or used in any building, dwelling or other structure, shall be installed, constructed or otherwise situated together with any hose or similar apparatus, such that there is a clearly visible means or apparatus of exit from the building, dwelling or other structure independent of the sanitary sewer system.

(Ord. No. 522, § 1, 2-7-95)

SECTION 21-58. UNLAWFUL DAMAGE, TAMPERING

(a) No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance or equipment which is a part of the wastewater facilities. Any person violating this provision shall be subject to immediate arrest and shall otherwise be subject to prosecution.

(b) Reserved.

(Ord. No. 522, § 1, 2-7-95)

SECTION 21-59. POWERS AND AUTHORITY OF INSPECTORS

(a) The superintendent or any duly authorized employee or representative of the city shall have the right and be permitted at all reasonable times to enter upon any property making use of the city's sewer system, for the purpose of inspection, observation, measurement, general

supervision, testing, sampling or correction of any improper usage of the sewage system, in accordance with the provisions of this article.

(b) The superintendent or other duly authorized employees are authorized to obtain information concerning industrial processes which have a direct bearing on the kind and source of discharge to the wastewater collection system.

(c) The superintendent and other duly authorized employees of the city shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurements, sampling, repair, and maintenance of any portion of the wastewater facilities lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

(Ord. No. 522, § 1, 2-7-95)

SECTION 21-60. APPEAL; HEARING BOARD

(a) Any person feeling aggrieved by any action, decision or inaction by the superintendent may appeal to the city council, who shall attempt to fairly arbitrate and resolve the matter. Any person not satisfied with the council's determination, including the superintendent, may appeal to a hearing board as hereinafter provided.

(b) A hearing board shall be appointed as needed for arbitration of differences between the superintendent and sewer users on matters concerning interpretation and execution of the provisions of this article by the superintendent. The cost of arbitration, if any, will be divided equally between the city and the sewer user.

(c) One member of the board shall be a registered professional engineer; one member shall be a practicing sanitary engineer; one member shall be a representative of industry or manufacturing enterprise; one member shall be a lawyer; and one member shall be selected at large for his interest in accomplishing the objectives of this article.

(Ord. No. 522, § 1, 2-7-95)

SECTION 21-61. ENFORCEMENT

(a) Any person violating any provision of this article or of this chapter shall be liable for any expense to correct the same and for any loss or damage occasioned by such violation.

(b) In addition, if the violation is of such a nature that, in the opinion of the superintendent, it can be corrected within a reasonable time without serious injury or damage to the system, the superintendent may, at his option, cause written notice to be given to the violator, which notice shall identify the violation and indicate the time within which the violation must be corrected. The violator shall comply with the notice.

(c) If any violation is of such a nature that, in the opinion of the superintendent, it requires immediate remediation, the superintendent or the city shall be authorized to take all action necessary or convenient to remedy the situation, without restriction.

(d) Any person found to be in violation of any provision of this article, or any person who fails to comply with any notice described in subsection (b) above, shall be deemed guilty of a misdemeanor and on conviction thereof, shall be subject to a minimum one hundred dollar ($100.00) fine. Each day during which the violation occurs or continues shall be deemed a separate offense. Subsequent violations or repeat offenses within a reasonable time shall result in increased fines.

(Ord. No. 522, § 1, 2-7-95)

SECTIONS 21-62 – 21-66. RESERVED

ARTICLE IV. DETERMINING EQUITABLE SEWER CHARGES

SECTION 21-67. PURPOSE

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

(Ord. No. 522, § 2, 2-7-95)

SECTION 21-68. DETERMINING THE TOTAL ANNUAL COST OF OPERATION AND MAINTENANCE

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

(Ord. No. 522, § 2, 2-7-95)

SECTION 21-69. DETERMINING EACH USER'S WASTEWATER CONTRIBUTION PERCENTAGE

(a) The city, or its engineer, shall determine for each user or user class the average daily volume of wastewater discharged to the wastewater system, which shall then be divided by the average daily volume of all wastewater discharged to the wastewater system to determine such user's volume contribution percentage. The amount used as the total average daily volume of wastewater shall exclude infiltration and inflow. The city, or its engineer, shall determine for each user or user class the average daily poundage of five-day twenty-degree Centigrade biochemical oxygen demand (BOD) discharged to the wastewater system which shall then be divided by the average daily poundage of all five-day BOD discharged to the wastewater system to determine such user's BOD contribution percentage.

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

(Ord. No. 522, § 2, 2-7-95)

SECTION 21-70. DETERMINING A SURCHARGE SYSTEM FOR USERS WITH EXCEEDS BOD AND TSS

The city, or its 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 their above-normal strength wastes. Normal strength wastes are considered to be two hundred fifty (250) ppm BOD and two hundred fifty (250) ppm TSS. The surcharge rate structure for such above-normal strength waste dischargers is attached (Appendix A, located at the end of this chapter).

(Ord. No. 522, § 2, 2-7-95)

SECTION 21-71. DETERMINING EACH USER'S WASTEWATER SERVICE CHARGE

Each nonresidential user's wastewater treatment cost contribution as determined in sections 21-69 and 21-70 shall be added together to determine such user's annual wastewater service charge. Residential users may be considered to be one class of user and an equitable service charge may be determined for each user based on 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, total suspended solids, and BOD. Each user's wastewater treatment cost contribution will be assessed in accordance with the attached rate schedule (Appendix B, located at the end of this chapter).

(Ord. No. 522, § 2, 2-7-95)

SECTION 21-72. WASTEWATER UTILITY FUND

Any and all monies collected under authority of this article shall be kept in a separate fund to be known as the wastewater utility fund or the sewage disposal fund.

(Ord. No. 522, § 2, 2-7-95)

SECTION 21-73. WASTEWATER FACILITIES REPLACEMENT FUND

A reserve fund called the wastewater facilities replacement fund is hereby established within the wastewater utility fund for the purpose of providing sufficient funds to be expended for obtaining and installing equipment, accessories and appurtenances during the useful life (twenty (20) years) of the wastewater treatment facilities necessary to maintain the capacity and performance for which such facilities are designed and constructed (Appendix C, located at the end of this chapter).

(Ord. No. 522, § 2, 2-7-95)

SECTION 21-74. PAYMENT OF THE USER'S WASTEWATER SERVICE CHARGE AND PENALTIES.

Wastewater billing and delinquencies shall follow the same procedures set forth in Section 21-38.

(Ord. No. 522, § 2, 2-7-95; Ord. No. 746, § 1, 5-2-11; Ord. No. 929, 1-2-24; Ord. No. 954 § 1, 3-2-26)

Cross reference(s)--Billings, collections, charges, delinquent charges, Ch. 21, App. D.

SECTION 21-75. REVIEW OF EACH USER'S WASTEWATER SERVICE CHARGE

The city shall review the total annual cost of operation and maintenance as well as each user's wastewater contribution percentage not less often than every two (2) years and will revise the system as necessary to assure equity of the service charge system established herein and to assure

that sufficient funds are obtained to adequately operate and maintain the wastewater treatment works. The city shall apply excess revenues collected from a class of users to the costs of operation and maintenance attributed to that class for the next year and adjust the rate accordingly. 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.

(Ord. No. 522, § 2, 2-7-95)

SECTION 21-76. NOTIFICATION

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

(Ord. No. 522, § 2, 2-7-95)

SECTION 21-77. WASTES PROHIBITED FROM BEING DISCHARGED TO THE WASTEWATER TREATMENT SYSTEM

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

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

(Ord. No. 522, § 2, 2-7-95)

SECTION 21-78. PROHIBITION OF CLEAR WATER CONNECTIONS

No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

(Ord. No. 522, § 2, 2-7-95)

SECTION 21-79. PROPER DESIGN AND CONSTRUCTION OF NEW SEWERS AND CONNECTIONS

The size, slope, alignment, materials of construction of all sanitary sewers and sewer connections, and the methods to be used in excavating, 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 provisions 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.

(Ord. No. 522, § 2, 2-7-95)

SECTION 21-80. CONTRACTS FOR PRIVATE, INDUSTRIAL AND OTHER CONNECTIONS

Nothing contained in this article shall be construed to limit or restrict the power of the city to contract for sewer utility services as granted by state law; and any contract entered into under such power shall be in lieu of any fees, rates, rentals or charges established under this article, but in no event shall a contract for services be entered into at rates less than those specified in Appendix B, located at the end of this chapter.

(Ord. No. 522, § 2, 2-7-95)

SECTION 21-81. USE OF PRIVATE WELLS

(a) The owner or occupant of any commercial or industrial premise or commercial or industrial structure using water from a private well where the sanitary sewer system is in use is hereby required to have a water meter installed in such a manner that all water from such private well which is used in the building shall be registered by the meter, provided however, that any water for use on lawns or gardens or for other purposes which does not flow into the sanitary system of the city, may be bypassed so as not to pass through the water meter.

(b) All meters shall be approved by the city water department and shall be installed by the city water department at the expense of the owner or occupant of the premises and the officers and employees of the city shall have access to the premises at all reasonable times for the purpose of inspecting the water system, installing and repairing the meters and reading the same.

(c) The meters shall be read and the sewer charge shall be computed, billed and collected in the same manner as provided by this article.

(d) The sewer utility charge for residential premises using water from a private well shall be based on estimates prepared by the municipal finance officer.

(Ord. No. 522, § 2, 2-7-95)

SECTION 21-82. WASTEWATER RATES

The Dell Rapids City Council shall, from time to time, establish wastewater rates and surcharges by resolution.

(Ord. No. 954, § 1, 3-2-26)

SECTION 21-83. BILLINGS, COLLECTIONS, DELINQUENT CHARGES

Sewer bills shall be sent out with and as a part of the water bills described in section 21-38. Sewer bills shall have the same due date as water bills and shall carry the same rate of delinquency charge as past due water bills. All Delinquent charges shall follow Section 21-40 and collections shall follow Section 21-48.

(Ord. No. 954, § 1, 3-2-26)

SECTIONS 21-84 – 21-90. RESERVED

APPENDIX A. SURCHARGE RATE SCHEDULE FOR ABOVE NORMAL STRENGTH WASTES

The city, or its engineer, has determined that the average total suspended solids (TSS) and five-day biochemical oxygen demand (BOD) daily loadings for the average residential user are two hundred fifty (250) ppm BOD and two hundred fifty (250) ppm TSS. The city, or its engineer, has assessed a surcharge rate for all nonresidential users discharging wastes with BOD and TSS strengths greater than the average residential user. The surcharge will be sufficient to cover the costs of treating such users' above normal strength wastes. Such users will pay an additional service charge of ten cents ($0.10) per one thousand (1,000) gallons for each twenty-five (25) ppm over two hundred fifty (250) ppm of BOD and ten cents ($0.10) per one thousand (1,000) gallons for each twenty-five (25) ppm over two hundred fifty (250) ppm TSS.

(Ord. No. 522, § 2, 2-7-95)

APPENDIX B. REPEALED

(Ord. No. 522, § 2, 2-7-95; Ord. No. 534, § 1, 12-19-95; Ord. No. 573, § 4, 12-7-98; Ord. No. 610, § 2, 12-18-00; Ord. No. 612, § 2, 2-5-01; Ord. No. 680, § 1, 8-15-05; Ord. No. 714, § 1, 10-1-07;

Ord. No. 717, § 1, 8-4-08; Ord. No. 731, § 1, 10-19-09; Ord. No. 744, § 1, 4-18-11; Ord. No. 755, § 1, 11-21-11; Ord. No. 763, § 1, 8-20-12; Ord. No. 827, § 1, 12-21-15; Ord. No. 843, § 1, 12-19-16; Ord. No. 851, § 1, 12-18-17; Ord. No. 931, § 1, 1-2-24; Ord. No. 940, § 1, 12-16-24; Ord. No. 954; § 2, 3-3-26)

APPENDIX C. WASTEWATER FACILITIES REPLACEMENT FUND SCHEDULE

The reserve fund called the wastewater facilities replacement fund established within the wastewater utility fund as an interest-bearing account shall be funded by a deposit of two thousand dollars ($2,000.00) per year obtained from the wastewater utility fund at the end of each fiscal year.

(Ord. No. 522, § 2, 2-7-95)

APPENDIX D. REPEALED

(Ord. No. 522, § 2, 2-7-95; Ord. No. 848, § 2, 11-06-17; Ord. No. 954, § 2, 3-2-26)

CHAPTER 22 – VEGETATION*

***Editor's note--**Ord. No. 400, adopted May 1, 1984, deleted the former Ch. 22, pertaining to vegetation, and enacted a new Ch. 22, pertaining to the same subject matter. Said former chapter was derived from Ord. No. 128, §§ 23, 88--91, enacted on Feb. 2, 1926.

State law reference(s)--Preservation of trees, SDCL 9-38-2.

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Section 22-11. Board proceedings.
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Sections 22-68, 22-69. Reserved.

ARTICLE I. IN GENERAL

SECTION 22-1. POLICY STATEMENT AND PURPOSE

Inasmuch as the continued preservation and protection of our treasured natural resources is vital to the continued well being and beautification of our cities and their inhabitants, it is hereby expressly declared to be the policy of the City of Dell Rapids, South Dakota, and in the best interests of its citizens, and for the continued beautification of the city and for the preservation of the health and safety of those persons who reside in, visit or patronize the city, that there be established and maintained a comprehensive cooperative community effort and program of tree and vegetation management, planting, maintenance and removal, and the mayor and common council of the City of Dell Rapids, South Dakota, for and on behalf of themselves, the city and its inhabitants, hereby dedicated themselves and the city to such ends.

(Ord. No. 400, 5-1-84)

SECTION 22-2. DEFINTIONS

For the purposes of this section, the following terms, phrases, words, and their derivations shall have the meanings given herein.

(a) *Public property or area.* All lands and real property owned by the City of Dell Rapids, South Dakota, including areas dedicated to the city for public use such as parks, streets, alleys, boulevards, etc.

(b) *Private property.* All property not constituting public property.

(c) *Tree.* All large woody vegetation commonly known and referred to as trees, and smaller woody vegetation such as shrubs, bushes and the like.

(d) *Noxious weed.* All actively growing plants declared to be statewide noxious weeds by the South Dakota Weed and Pest Control Commission and all actively growing weeds declared by Minnehaha County to be locally noxious

(e) *Weeds.* Any plants growing uncultivated and out of context with the surrounding plant life when such plant has a seed head formed or forming and with a height of eight (8) inches or more, except as otherwise provided in this section.

(f) *Developed lot or area.* A lot or area with a finished building or building under construction.

(g) *Undeveloped lot or area.* A vacant lot or area with no structure on it.

(Ord. No. 400, 5-1-84; Ord. No. 965, § 1, 10-5-2026)

SECTION 22-3. INTERFERENCE WITH CITY

It shall be unlawful for any person or organization to interfere with, hinder or impede any lawful activity of the city or its officials, officers, employees, or agents in carrying out its functions and

duties described in this chapter of the Revised Ordinances of the City of Dell Rapids, South Dakota.

(Ord. No. 400, 5-1-84)

SECTION 22-4. VIOLATION

Any person violating any provision of this chapter shall be subject to prosecution therefor, and upon conviction or a plea of guilty, shall be subject to fine of not less than forty dollars ($40.00) nor more than one hundred dollars ($100.00). Each separate violation shall constitute a separate offense.

(Ord. No. 400, 5-1-84)

SECTION 22-5. SEVERABILITY

Any paragraph, provision, portion or section herein legally and judicially struck down or otherwise found to be in violation of any provision of law that lawfully supersedes this chapter shall be severed from the remainder of this chapter and the remainder hereof shall remain in full force and effect.

(Ord. No. 400, 5-1-84)

SECTION 22-6. REPEAL

Any ordinances or parts of ordinances in conflict with this chapter are hereby repealed and of no further force and effect.

(Ord. No. 400, 5-1-84)

SECTIONS 22-7 – 22-9. RESERVED

ARTICLE II. TREE BOARD

SECTION 22-10. TREE BOARD ESTABLISHED

There is hereby created and established a city tree board in and for the city, which board shall consist of five (5) members of and from the city, except as hereinafter provided, who shall be appointed by the city park and recreation board for three-year terms, except the first board, which was appointed by the mayor and council and consisted of two (2) members appointed for one year

each, two (2) members appointed for two (2) years each, and one member appointed for three (3) years, thereby providing staggered terms thereafter. Persons residing outside the city limits of the city shall be eligible for appointment but only if special circumstances exist or the person being considered for appointment possesses or exhibits unique qualifications or expertise, or the park and recreation aboard is unable to find a resident willing and able to serve. Members of the tree board shall serve without compensation, except reimbursed expenses, if any, and they may serve consecutive terms, at the pleasure of the park and recreation board. In the event of a vacancy on the board, his or her successor shall be appointed for the remaining term of his or her predecessor.

(Ord. No. 400, 5-1-84; Ord. No. 484, § 1, 6-2-92; Ord. No. 517, § 1, 11-1-94)

SECTION 22-11. BOARD PROCEEDINGS

The board shall choose its own chairman, vice-chairman and secretary, and shall establish its own rules and regulations. The chairman, or vice-chairman in the absence of the chairman, shall preside at all meetings and the secretary shall take the minutes of all meetings and otherwise keep a permanent record of all board proceedings and activity. A majority of the members shall constitute a quorum for the transaction of business, but a majority of the members shall also be necessary for the passage of any motion or the making of any other decision.

(Ord. No. 400, 5-1-84)

SECTION 22-12. DUTIES AND RESPONSIBILITIES

The city tree board shall have the duty and responsibility to do and perform the following functions in the following areas:

(a) To take and record a general inventory of the trees in existence on public property, including boulevards and the city's tree bank south and west of town, including the conditions of said trees (health, pruning needs, disease, death, etc.)

(b) To take and record a general inventory of the trees in existence on private properties in the city for future reference and assistance in carrying out a long-range tree plan for the private as well as the public sectors of town.

(c) To formulate and adopt, and continually update, a long-range, comprehensive city tree program which shall deal with recommended areas of planting, pruning, removal and regular or periodic maintenance. The program shall prioritize the areas of need in the order the board deems appropriate, which priorities may from time to time be revised or restructured as the needs arise or change.

(d) The comprehensive plan shall include a list of preferred trees, trees the board deems inappropriate or unfit, and areas of the city, with emphasis on public grounds, where certain species of trees are deemed appropriate for planting.

(e) In conformity with the long-range comprehensive plan, the board shall present to the park and recreation board annually, at or about budget time, its recommendation of a short-range plan to be implemented by the board with approval of the park and recreation board over the next calendar year. Such short-range plan shall include a recommendation of which trees to plant in which public areas over the next calendar year, which trees in the entire town need removal, pruning or other care, and the plantings, trimming, removal or care recommended in the city tree bank. The short-range plan shall include a cost estimate for the next year, which plan in whole or in part shall be acted upon by the park and recreation board.

Upon approval by the park and recreation board, the short-range plan shall constitute the city's tree program for the next calendar year, including the budget as set forth in said plan, or as amended by the park and recreation board's approval.

(f) The board shall implement the annual plan and shall coordinate the plantings, pruning and removal to be done, with the municipal finance office and the appropriate department head(s) to ensure completion and compliance of and with the annual plan.

(g) As stated, the short-range annual plan shall include trees designated for removal or pruning due to death, disease, damage or danger to lives or property. In this regard the board shall work with the state or district forester or other appropriate governmental official in determining which trees in the public or private areas need removal, pruning or other care. The recommended procedure shall be sufficiently stated, such that on adoption of the annual short-range plan by the park and recreation board, the plan shall have the effect of law as to the removal, pruning or other care of the trees affected. As stated, the board shall implement the annual short-range plan, including the portion dealing with tree removal, pruning and care.

(h) The board shall have the power to alter or amend the annual plan when in its judgment conditions dictate a change or some emergency or unanticipated need has arisen requiring prompt attention.

(i) The board shall act as an advisory group for the city's private sector and shall assist in the planting and care of trees in the private areas of town.

(j) The board may seek the advice and counsel of the park and recreation board at any time, and the park and recreation board shall direct all matters concerning public tree planting, trimming, maintenance, care and other city tree matters to the board for its study, recommendation and implementation.

(l) The board shall have the power and other authority to work with other governmental bodies or civic organizations in the formulating, revising and carrying out of the long-range comprehensive program as well as the short-range annual plan.

(m) The board shall have primary jurisdiction over the control and eradication of weeds in the city as set forth in article VI of this chapter.

(Ord. No. 400, 5-1-84; Ord. No. 517, § 1, 11-1-94)

SECTION 22-13. INTERFERENCE WITH TREE BOARD

It shall be unlawful for any person or organization to interfere with, hinder or impede any lawful activity of the city tree board, its members, agents or employees, including but not being limited to its functions of meeting, planning, planting, pruning, removal or other care or maintenance.

(Ord. No. 400, 5-1-84)

SECTION 22-14. APPEAL

Any person or organization may appeal any decision, ruling, action, order or notice of or from the city tree board to the park and recreation board, who shall render a final decision on the matter.

(Ord. No. 400, 5-1-84; Ord. No. 517, § 1, 11-1-94)

SECTIONS 22-15 – 22-19. RESERVED

ARTICLE III. TREES ON OR NEAR PUBLIC PROPERTY*

***Cross reference(s)--**Protection of trees and shrubbery in parks, § 15.5-60; streets, sidewalks and other public places, Ch. 19; visibility at intersections in residential districts and fences, walls, and hedges, App. B, §§ 402, 403.

SECTION 22-20. SUPERVISION

The park and recreation board, and under it, the city tree board shall have exclusive jurisdiction and supervision over all trees, shrubs, plants and other growing vegetation in all public areas in the city, including boulevards, and in the city tree bank lying south and west of town.

(Ord. No. 400, 5-1-84; Ord. No. 517, § 1, 11-1-94)

SECTION 22-21. PLANTING

No person shall plant any tree on any public ground or boulevard without the prior approval of the city tree board. The city tree board shall have the power and authority to approve or disapprove such plantings, designate the species of tree to be planted in a designated public area, designate the location and the method of planting. Once planted, the city tree board shall continue to have jurisdiction over the tree and area planted.

(Ord. No. 400, 5-1-84)

SECTION 22-22. BOULEVARD TREES

The care, maintenance, pruning and removal of trees planted on any city boulevard, after the planting thereof has been approved by the city tree board, shall continue to be the responsibility of the private property owner or his successor who has planted the tree. While the tree board has jurisdiction over boulevard trees, the cost of planting, care, pruning, removal and the like is the responsibility of the private property owner.
(Ord. No. 400, 5-1-84)

SECTION 22-23. DISTANCES

Trees planted on or near public ground and boulevards shall comply with the following distance regulations:

(a) No tree shall be planted where the distance between any two (2) man-made improvements, such as curb and sidewalks, is less than four (4) feet.

(b) No trees shall be planted or permitted to grow so close to any curb, sidewalk or public structure or improvement, such that it interferes with vehicular traffic or parking, pedestrian movement along the walkway or such that it touches or crowds the public structure or improvement.

(c) No tree shall be planted within fifty (50) feet of the center of any intersection.

(d) No tree shall be planted within ten (10) feet of any fireplug or water hydrant.

(e) No tree shall be planted so that its natural growth will eventually interfere with any above-ground utility wire.

(f) No tree shall be planted within five (5) feet of any underground water, sewer or other utility line.

(Ord. No. 400, 5-1-84)

SECTION 22-24. RESPONSIBILITY OF PRIVATE SECTOR

Every private owner of every tree adjacent to or overhanging any street, sidewalk or other public way or parking area, or adjacent to or in close proximity with any street light, electric line, sewer or water pipe or other utility line or pipe, shall keep said tree in proper shape and condition, and shall, when necessary, prune or remove the same, at his expense, in proper manner, so that said tree does not interfere with or hinder normal usage of said street, sidewalk, area, utility, etc., or block any light from any such street light. Said owner shall also remove all dead, diseased, broken, decaying or otherwise dangerous limbs and branches which pose a potential health hazard or danger to the public. Shall the private owner not comply with this section, the city shall have the right to prune or remove any tree in violation of this section in the manner and with the same effect as described in article IV of this chapter, with the cost thereof being the responsibility of the private owner.

(Ord. No. 400, 5-1-84)

SECTION 22-25. INJURY TO PUBLIC TREES

It shall be unlawful for any person to remove, transplant, cut, trim, break, mark, cover, or in any manner injure or cause disease to any tree on any public area or boulevard, or otherwise make any attachments to any public tree by way of wire, string, nails, rope or the like.

(Ord. No. 400, 5-1-84)

SECTIONS 22-26 – 22-29. RESERVED

ARTICLE IV. TREES ON PRIVATE PROPERTY

SECTION 22-30. PRIMARY RESPONSIBILITY

Every owner and inhabitant of private property within the City of Dell Rapids, South Dakota, shall be responsible for the proper maintenance, care and pruning of all trees on private property within the city, and, when necessary, the removal of dead, diseased or otherwise dangerous trees or parts thereof on private property within the city.

(Ord. No. 400, 5-1-84)

SECTION 22-31. CITY JURISDICTION

The city shall have the jurisdiction and authority to order, and if necessary, to be involved in the actual pruning, care, removal or other activity involving any tree on any private property when the

same shall be deemed necessary or advisable to preserve the public health, peace, safety or welfare, or to prevent the spread of disease or insect infestation to other trees, plants or animals.

(Ord. No. 400, 5-1-84)

SECTION 22-32. CONDITIONS CONSTITUTING A PUBLIC NUISANCE

The following tree conditions on private or public property are hereby declared to constitute a public nuisance in that they pose potential safety or health hazards, could cause possible injury or endanger property or life, or unlawfully interferes with, obstructs or tends to obstruct, or renders dangerous for passage, any public park, square, street or highway, or other public way:

(a) Dead trees with no growth or life remaining;

(b) Those portions, branches and limbs of trees that are considered dead;

(c) Broken or damaged limbs or branches;

(d) Trees or areas of trees that are diseased requiring treatment, pruning or removal;

(e) Trees or areas of trees infested with insects that are harmful to trees, plant life or humans;

(f) Trees in violation of section 22-23 or section 22-24.

(Ord. No. 400, 5-1-84)

SECTION 22-33. PRIVATE ABATEMENT

It shall be unlawful for any person to cause or allow any public nuisance as defined in section 22-32, on his or her property, and the same shall be privately abated by the owner or inhabitant of the property upon his discovery of the same.

(Ord. No. 400, 5-1-84)

SECTION 22-34. CITY INSPECTION

The city, its designated officers or employees, and the city park and recreation board, and the city tree board, its members and agents, shall have the authority to enter onto private property for the purpose of inspection for the possible discovery of any public nuisance as defined in section 22-32. Any such inspection may involve the state or district forester or other appropriate governmental official and may include the taking of any specimen or sample for testing or closer analysis.

(Ord. No. 400, 5-1-84; Ord. No. 517, § 1, 11-1-94)

SECTION 22-35. ORDER TO ABATE

When the determination is made that one of the items constituting a public nuisance is in existence, the city tree board shall cause a written order to abate or correct the nuisance to be given to the owner or inhabitants of the property involved. The order shall effectively describe the remedy needed and shall give the owner or inhabitant a designated reasonable time, depending on the severity or emergency of the situation, to correct the problem, whether it be by treatment, pruning, removal or other remedy. The time shall be as determined by the city tree board. Service shall be in such a manner as to reasonably assure delivery.

(Ord. No. 400, 5-1-84)

SECTION 22-36. APPEAL

Any person, owner or inhabitant of any property feeling aggrieved by receipt of an order described in section 22-35 above may appeal said order to the park and recreation board as described in section 22-14. Appeals must be taken within the time stated in the order. The park and recreation board may affirm, modify or revoke the order.

(Ord. No. 400, 5-1-84; Ord. No. 517, § 1, 11-1-94)

SECTION 22-37. FAILURE TO COMPLY

Any person failing to comply with an order given pursuant to section 22-35 shall be in violation of this chapter and shall be subject to prosecution therefor. In addition, the park and recreation board, at the recommendation of the city tree board, shall have the authority to prevent, abate or otherwise remove the public nuisance in existence.

(Ord. No. 400, 5-1-84; Ord. No. 517, § 1, 11-1-94)

SECTION 22-38. CITY ABATEMENT

Any public nuisance remaining unabated after expiration of the time in the order described in section 22-35 may be abated by the city, by the city crews or by private contractor hired by the city. Any person who shall enter onto any private property to abate any public nuisance at the discretion of any lawful order of the city shall be authorized so to do for that purpose.

(Ord. No. 400, 5-1-84)

SECTION 22-39. COST OF ABATEMENT; ASSESSMENT

If the city is forced to abate the nuisance and correct the situation, whatever it might be, upon the city's completion thereof, the municipal finance officer shall bill the property owner or inhabitant therefor, and the bill shall be paid within thirty (30) days of receipt thereof. If the bill is not so paid within the time stated, the city may defray the cost of abating the public nuisance plus accrued interest, by taxing the cost thereof by special assessment against the property on which the nuisance occurred. The levying of such a special assessment shall not relieve the owner or inhabitant from prosecution or fine for violation of this article.

(Ord. No. 400, 5-1-84)

SECTION 22-40. INJURY TO PRIVATE TREES

It shall be unlawful for any person to remove, transplant, cut, trim, break, mark, cover, or in any way or manner injure or cause disease to any tree of another, or otherwise make any attachments to any tree of another by way of wire, string, nails, rope or the like.

(Ord. No. 400, 5-1-84)

SECTION 22-41. INJURY WHILE MOVING

No person shall move any structure or other article along any street, alley or public way in such a manner so as to cause potential injury to any tree. If any such movement requires trimming or removal of any tree, any such trimming or removal shall be done by a licensed arborist under the supervision or direction of the city tree board, at the cost of the person doing the moving. Should tree injury or death result from anyone violating this section, that person shall, at his expense, correct or replace the tree, and be subject to prosecution for violation hereof.

(Ord. No. 400, 5-1-84)

SECTION 22-42. TREE TOPPING

It shall be unlawful for any person to top any tree such that its limbs are severely cut back to stubs larger than three (3) inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree, except with the prior approval of the city tree board, as in the case of storm damage or necessity for existing older trees near utilities.

(Ord. No. 400, 5-1-84)

SECTIONS 22-43 – 22-49. RESERVED

ARTICLE V. TREES--MISCELLANEOUS

SECTION 22-50. ARBOR DAY

To create an appreciation of trees and their value to the community, there is hereby designated an arbor day to be held on an appropriate date in the spring of each year, at the recommendation of the city tree board and on proclamation of the mayor. On that date the city tree board shall supervise or implement a commemorative tree planting to instill interest in the citizens of the city in the care and maintenance of the city's trees both in public areas and on private land.

(Ord. No. 400, 5-1-84)

SECTIONS 22-51 – 22-59. RESERVED

ARTICLE VI. WEED CONTROL*

***Cross reference(s)--**Nuisances and offensive conditions, Ch. 12, § 12-16 et seq.

State law reference(s)--Authority to require removal of weeds, SDCL 9-30-5; noxious and unhealthful vegetation, SDCL 9-32-12; weed control generally, ch. 38-22.

22-60. DUTY OF OWNERS, INHABITANTS

Each owner and each person in the possession or control of any land shall cut or otherwise destroy, in whatever manner prescribed by the City, all noxious weeds thereon and shall keep said lands free of such growth.

(Ord. No. 400, 5-1-84; Ord. No. 965, § 2, 10-5-2026)

22-61. PUBLIC NUISANCE

(a) Each owner and each person in possession or control of any property shall be responsible to keep said lot, place, or area or upon any sidewalk abutting the same free of any noxious weeds and to keep grasses and weeds on said lot mowed so that grass and weeds are less than eight (8) inches in height. However, grass and weeds located on undeveloped and unplatted property located more than 100 feet from developed or platted property shall be mowed so that grass and weeds are less than twelve (12) inches in height. This does not apply to vegetation which is being grown as a crop, livestock pasture or wildflower display garden.

(b) Each owner and each person in the possession or control of any lands shall not allow any plant growth of any sort to remain in such a manner as to render the streets, alleys or public

ways adjoining said land unsafe for public travel or in any manner so as to impede pedestrian or vehicular traffic upon any public place or way.

(Ord. No. 400, 5-1-84; Ord. No. 965, § 2, 10-5-2026)

22-62. PUBLIC NOTICE BY CITY

The Finance Officer shall annually on or before May 1 of each year publish once a week for two consecutive weeks a Notice to Property Owners generally setting forth the duty to control weeds and other vegetation which might be a nuisance in violation of this section.

(Ord. No. 400, 5-1-84; Ord. No. 965, § 2, 10-5-2026)

22-63. POSTING NOTICE TO ABATE

The City Administrator or his designee may cause a Notice to Abate Nuisance to be served, by posting of notice on such property within view of the public, upon any property owner who fails to comply with the published notice or any person who at any other time has weeds or other vegetation. Upon failure, neglect or refusal of any owner, agent or occupant so notified to comply with said notice within five (5) days, thereof the City Administrator or his designee is hereby authorized and empowered to provide for the cutting, destroying or removal of the weeds, grass or other noxious matter and stabilize the soil if necessary. The City may defray the cost of the work, including administrative costs, by special assessment against the property as set out in Section 22-64.

(Ord. No. 400, 5-1-84; Ord. No. 965, § 2, 10-5-2026)

22-64. COST OF ABATEMENT RECOVERED; ASSESSMENT

The Finance Officer shall cause an account to be kept against each lot upon which work is done pursuant to Section 22-63 and shall after completion of the work, bill the owner of the property for such work and if not paid within thirty (30) days thereafter, the Finance Officer shall thereupon add such assessment to the general assessment against said property. The Finance Officer shall certify such special assessment together with the regular assessment to the Minnehaha County Auditor to be collected as municipal taxes for general purposes.

Said assessment shall be subject to review and equalization the same as assessments or taxes for general purposes. In lieu of special assessment, the City Council may institute a civil action against the owner or occupant of such property to recover said account.

(Ord. No. 400, 5-1-84; Ord. No. 517, § 1, 11-1-94; Ord. No. 965, § 2, 10-5-2026)

22-65. HABITUAL VIOLATORS

If the owner or person in control of any land that has previously received a notice to abate nuisance relating to weeds within the preceding 24 months, then, the notice to abate nuisance may include notice that such owner or person in control of said property will be considered to be an habitual violator of this section and that if the nuisance is not abated within the allowed time, the City will consider the property to be subject to having a contract let by the City for mowing property as needed up to a weekly basis for the next following 24-month period of time and that the full cost of said contract together with an administrative fee of two hundred dollars ($200.00) will be assessed against the property.

(Ord. No. 400, 5-1-84; Ord. No. 517, § 1, 11-1-94; Ord. No. 965, § 2, 10-5-2026)

22-66. PENALTY

Any person whose duty it is to destroy or remove such noxious weeds or unhealthful vegetation as set forth in the preceding sections or who fails to destroy same within the time hereinbefore set forth shall upon conviction thereof be subject to the penalties established in this ordinance (Section 1-4), in addition to other penalties as prescribed in this section.

(Ord. No. 400, 5-1-84; Ord. No. 517, § 1, 11-1-94; Ord. No. 965, § 2, 10-5-2026)

SECTIONS 22-68, 22-69. RESERVED

APPENDICES*

***Editor's note--**Ord. No. 400, adopted May 1, 1984, deleted the former Ch. 22, pertaining to vegetation, and enacted a new Ch. 22, pertaining to the same subject matter. Said former chapter was derived from Ord. No. 128, §§ 23, 88--91, enacted on Feb. 2, 1926.

APPENDIX A. RESERVED

APPENDIX B. 2011 REVISED ZONING ORDINANCE OF THE CITY OF DELL RAPIDS

Copies of the 2011 Revised Zoning Ordinance of the City of Dell Rapids are available from the City Administrator or on the City's official website: http://www.cityofdellrapids.org/.

***Editor's note--**Ord. No. 750, adopted November 7, 2011, repealed the former Ordinance No. 369, and enacted new zoning regulations as set forth in the document titled 2011 Revised Zoning Ordinance of the City of Dell Rapids.

State law reference(s)—Municipal Planning and Zoning, SDCL 11-4.

APPENDIX C. FLOODPLAIN MANAGEMENT

ARTICLE I. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND METHODS

SECTION A. STATUTORY AUTHORIZATION

The Legislature of the State of South Dakota has in (statutes) SDCL 9-36 and 7-18-14 delegated the responsibility of local governments units to adopt regulations designed to minimize flood losses. Therefore, the *City of Dell Rapids, South Dakota*, does ordain as follows:

The *City of Dell Rapids* elects to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended). The National Flood Insurance Program, established in the aforesaid act, provides that areas of the town having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. The National Flood Insurance Program was broadened and modified with the passage of the Flood Disaster Protection Act of 1973 and other legislature measures. It was further modified by the National Flood Insurance Reform Act of 1994. The National Flood Insurance Program is administered by the Federal Emergency Management Agency, a component of the U.S. Department of Homeland Security.

SECTION B. FINDINGS OF FACT

(1) The flood hazard areas of *Dell Rapids, South Dakota*, are subject to periodic inundation which results in the loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.

(2) These flood loses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazards areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

SECTION C. STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. Protect human life and health;
2. Minimize expenditure of public money for costly flood control projects;
3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. Minimize prolonged business interruptions;
5. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
6. Help maintain a stable tax base by providing for the sound use and development of floodprone areas in such a manner as to minimize future flood blight areas; and
7. Insure that potential buyers are notified that property is in a flood area.

SECTION D. METHODS OF REDUCING FLOOD LOSSES

In order to accomplish its purposes, this ordinance uses the following methods:

1. Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;

2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
4. Control filling, grading, dredging and other development which may increase flood damage;
5. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

ARTICLE II. DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the meaning they have in common usage and to give this ordinance its' most reasonable application.

Area of future-conditions flood hazard means the land area that would be inundated by the 1-percent-annual-chance (100-year) flood based on future-conditions hydrology.

Area of shallow flooding means a designated AO, AH, AR/AO, AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood-related erosion hazard is the land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area; in preparation for publication of the FIRM, Zone E may be further refined.

Area of special flood hazard is the land in the flood plain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the flood insurance rate map, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, or V1-30, VE, or V. For purposes of these regulations, the term "special flood hazard area" is synonymous in meaning with the phrase "area of special flood hazard".

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Base Flood Elevation (BFE) – Is the water surface elevation of the one (1) percent annual chance flood. The height in relation to mean sea level expected to be reached by the waters of the base flood at pertinent points in the floodplains of coastal and riverine areas.

Basement means any area of the building having its floor subgrade (below ground level) on all sides.

Breakaway wall means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

Building--see structure.

Development means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Erosion means the process of the gradual wearing away of land masses. This peril is not per se covered under the Program.

Existing construction means for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.
Existing structures--see existing construction.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Flood or Flooding means:

(a) A general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland or tidal waters.
(2) The unusual and rapid accumulation or runoff of surface waters from any source.
(3) Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (a)(2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

(b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a)(1) of this definition.

Flood elevation determination means a determination by the Administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

Flood Insurance Rate Map (FIRM) means an official map of a community, on which the Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

Flood Insurance Study or Flood elevation study means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

Flood plain or flood-prone area means any land area susceptible to being inundated by water from any source (see definition of "flooding").

Flood proofing means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway--see regulatory floodway.

Floodway encroachment lines mean the lines marking the limits of floodways on Federal, State and local flood plain maps.

Freeboard means a factor of safety usually expressed in feet above a flood level for purposes of flood plain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

Functionally dependent use means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Functionally dependent use means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Highest adjacent grade means the highest natural elevation of the found surface prior to construction next to the proposed walls of a structure.

Historic Structure means any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of the registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(c) Individually listed on a state inventory of historic places in states with historic reservation programs which have been approved by the Secretary of the Interior; or

(d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(1) By an approved state program as determined by the Secretary of the Interior or

(2) Directly by the Secretary of the Interior in states without approved programs.

Letter of Map Amendment (LOMA) means an official revision to a FEMA map done by describing the property affected. LOMAs are generally issued when properties have been inadvertently included in the floodplain.

Letter of Map Change (LOMC) also refers to amendments to the community's FEMA map within accepted State and Federal guidelines.

Letter of Map Revision (LOMR) also refers to an official revision of a FEMA map done by describing the property affected. A Conditional Letter of Map Revision (CLOMR) can be included in the community's variance procedure.

Levee means a man-made structure usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

Levee System means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Lowest Floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; Provided,

that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Sec. 60.3.

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Map means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by the Agency.

Mean sea level means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

New construction means, for the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is competed on or after the effective date of floodplain management regulations adopted by a community.

Recreational vehicle means a vehicle which is:

(a) Built on a single chassis;
(b) 400 square feet or less when measured at the largest horizontal projection;
(c) Designed to be self-propelled or permanently towable by a light duty truck; and
(d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory floodway means the channel of a river or other watercourse and the adjacent land areas that much be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Special flood hazard area: see "area of special flood hazard".

Special hazard area means an area having special flood, mudslide (i.e., mudflow), or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, A99, AH, VO, V1-30, VE, V, M, or E.

Start of Construction (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

Structure, for insurance purposes means:

(1) A building with two or more outside rigid walls and a fully secured roof, that is affixed to a permanent site;

(2) A manufactured home ("a manufactured home," also known as a mobile home, is a structure: built on a permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation); or

(3) A travel trailer without wheels built on a chassis and affixed to a permanent foundation, that is regulated under the community's floodplain management and building ordinances or laws. For the latter purpose, "structure" does not mean a recreational vehicle or a park trailer or other similar vehicle, except as described in paragraph (3) of this definition, or a gas or liquid storage tank.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to it's before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures

which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

(1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or

(2) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Variance means a grant of relief by a community from the terms of a flood plain management regulation.

Violation means the failure of a structure or other development to be fully complaint with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Sec. 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

Water surface elevation means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

ARTICLE III. GENERAL PROVISIONS

SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES

This ordinance shall apply to all areas of special flood hazard within the jurisdiction of *Dell Rapids, South Dakota*.

SECTION B. BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for *Dell Rapids, Minnehaha County, South Dakota*," dated *September 2, 2009*, with accompanying Flood Insurance Rate Maps (FIRM), dated *September 2, 2009*, and any revisions thereto are hereby adopted by reference and declared to be a part of this ordinance.

SECTION C. ESTABLISHMENT OF DEVELOPMENT PERMIT

A Development Permit shall be required to ensure conformance with the provisions of this ordinance.

SECTION D. COMPLIANCE

No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this ordinance and other applicable regulations.

SECTION E. ABROGATION AND GREATER RESTRICTIONS

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SECTION F. INTERPRETATION

In the interpretation and application of this ordinance, all provisions shall be:

1. considered as minimum requirements;
2. liberally construed in favor of the governing body; and
3. deemed neither to limit nor repeal any other powers granted under State statutes.

SECTION G. WARNING AND DISCLAIMER OR LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes.
This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

SECTION H. SEVERABILITY

If any section, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court, the remainder of the ordinance shall not be affected.

ARTICLE IV. ADMINISTRATION

SECTION A. DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR

The *City Administrator* is hereby appointed the Floodplain Administrator to administer and implement the provisions of this ordinance and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.

SECTION B. DUTIES & RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

1. Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance.

2. Review permit application to determine whether proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.

3. Review, approve or deny all applications for development permits required by adoption of this ordinance.

4. Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.

5. Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.

6. Notify, in riverine situations, adjacent communities and the State Coordinating Agency, which is *South Dakota Office of Emergency Management*, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

7. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

8. When base flood elevation data has not been provided in accordance, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State or other source, in order to administer the provisions of this ordinance.

9. When a regulatory floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

10. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the community **first** applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision). The City of Dell

Rapids foresees no circumstance that would encourage the application of a conditional FIRM revision.

SECTION C. PERMIT PROCEDURES

Application for a Development Permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard.

Additionally, the following information is required:

1. Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;

2. Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;

3. A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Article V, Section B;

4. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.

5. Maintain a record of all such information.

Approval or denial of a Development Permit by the Floodplain Administrator shall be based on all of the provisions of this ordinance and the following relevant factors:

1. The danger to life and property due to flooding or erosion damage;

2. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

3. The danger that materials may be swept onto other lands to the injury of others;

4. The compatibility of the proposed use with existing and anticipated development;

5. The safety of access to the property in times of flood for ordinary and emergency vehicles;

6. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;

7. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;

8. The necessity to the facility of a waterfront location, where applicable;

9. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

10. The relationship of the proposed use to the comprehensive plan for that area.

11. Letters of Map Revision (LOMRs) are required under 44 CFR 65.3; the Dell Rapids, South Dakota, City Council can choose to interpret a stricter local standard for this process.

12. Conditional Letters of Map Revision are required under 44 CFR 60.3 and can apply to the following conditions:

    a) A Conditional Letter of Map Revision (CLOMR) is required for those projects that will impact the following:

        1. BFE/no floodway (demonstrate greater than 1.00 foot increase).

            A. A project on a stream or river that has been studied through detailed hydrologic and hydraulic analyses and for which Base Flood Elevations (BFEs) have been specified, but a floodway has not been designated. If the developer/property owner/community proposes to allow development that would result in more than a 1.00 foot increase in the BFE, a CLOMR must first be obtained.

            B. 44 CFR 60.3(c)(10): Development that will result in an increase in the base flood water-surface elevation (WSEL) of greater than 1.00 foot for streams with BFEs specified but no regulatory floodway designated.

        2. BFE/floodway.

            A. A CLOMR is required for a project on a stream or river for which detailed analyses have been conducted and BFEs and a floodway have been designated. If the community proposes to allow development totally or partially within the floodway that would result in any (greater than 0.00 foot) increase in the BFE, a CLOMR must be obtained.

            B. 44 CFR 60.3(d)(3): Development that will result in any base flood WSEL increase from proposed construction within a regulatory floodway.

SECTION D. VARIANCE PROCEDURES

The Appeal Board as established by the community shall hear and render judgment on requests for variances from the requirements of this ordinance. The Dell Rapids City Council functions as the Appeal Board.

1. Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.

2. The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency and the State Office of Emergency Management upon issuing a variance.
3. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Section C of this Article have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

4. Upon consideration of the factors noted above and the intent of this ordinance, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this ordinance.

5. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

6. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

7. Prerequisites for granting variances:

    a) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

    b) Variances shall only be issued upon:

        1) showing a good and sufficient cause;

        2) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and

        3) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

c) Any application to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

8. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:

b) the criteria outlined in Article 4, Section D(1)-(9) are met, and

c) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

ARTICLE V. PROVISIONS FOR FLOOD HAZARD REDUCTION

SECTION A. GENERAL STANDARDS

In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:

1. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

2. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;

3. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;

4. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

5. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

6. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,

7. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

SECTION B. SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data has been provided the following provisions are required:

1. **Residential Construction** – new construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to one foot above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standards of this ordinance are satisfied.

2. **Nonresidential Construction** – new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to one foot above the base flood level or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the Floodplain Administrator.

3. **Enclosures** – new construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

    a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

    b) The bottom of all openings shall be no higher than one foot above grade.

    c) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

4. **Manufactured Homes** –

    a) Require that all manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of

anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

b) Require that manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

c) In A-1-30, AH, and AE Zones, require that manufactured homes to be placed or substantially improved in an existing manufactured home park to be elevated so that the lowest floor is at or above the Base Flood Elevation; OR the chassis is supported by reinforced piers no less than 36 inches in height above grade and securely anchored.

5. **Recreational Vehicles** - Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either:

a) be on the site for fewer than 180 consecutive days,

b) be fully licensed and ready for highway use, or

c) meet the permit requirements of Article IV, Section C, and the elevation and anchoring requirements for "manufactured homes" of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

SECTION C. STANDARDS FOR SUBDIVISION PROPOSALS

1. All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with the provisions of this ordinance.

2. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Development Permit requirements of this ordinance.

3. Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser.

4. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.

5. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

SECTION D. STANDARDS FOR AREAS OF SHALLOW FLOODING (AO/AH ZONES)

Located within the areas of special flood hazard established in Article 3, Section B, are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

1. All new construction and substantial improvements of **residential** structures have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).

2. All new construction and substantial improvements of **non-residential** structures;

    a) have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or;

    b) together with attendant utility and sanitary facilities be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

3. A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section, as proposed in Article 4, Section C(1)a., are satisfied.

4. Require within Zones AH or AO adequate drainage paths around structures on slopes, to guide flood waters around and away from proposed structures.

SECTION E. FLOODWAYS

Floodways located within areas of special flood hazard established in Article III, are extremely hazardous areas due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

1. Designate a regulatory floodway which will not increase the Base Flood level more than 1 foot.

2. Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodways *unless* it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

3. All new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article V in this ordinance.

4. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community **first** applies for a conditional FIRM and floodway revision through FEMA.

SECTION F. PENALTIES FOR NONCOMPLIANCE

In accordance with Section 59.2(b) of CFR 44, Chapter 1, of the National Flood Insurance Program (NFIP) regulation, to qualify for the sale of Federally-subsidized flood insurance, a community must adopt floodplain management regulations that meet or exceed the minimum standards of Section 60. "These regulations must include effective enforcement provisions." In accordance with Section 60.1(b) of CFR 44, Chapter 1, of the NFIP regulations, "These regulations must be legally-enforceable, applied uniformly throughout the community to all privately and publicaly owned land within flood-prone (i.e. mudflow) or flood-related erosion areas, and the community must provide that the regulations take precedence over less restrictive conflicting local laws, ordinances or codes."

THEREFORE: No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than *$500* or imprisoned for not more than *30 days*, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Each and every day that such violation continues may constitute a separate offense. Nothing herein contained shall prevent the *City of Dell Rapids* from taking such other lawful action as is necessary to prevent or remedy any violation.

CERTIFICATION

It is hereby found and declared by the *City of Dell Rapids* that severe flooding has occurred in the past within its jurisdiction and will certainly occur within the future; that flooding is likely to result in infliction of serious personal injury or death, and is likely to result in substantial injury or

destruction of property within its jurisdiction; in order to effectively comply with minimum standards for coverage under the National Flood Insurance Program; and in order to effectively remedy the situation described herein, it is necessary that this ordinance become effective immediately.

Therefore, an emergency is hereby declared to exist, and this ordinance, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval.

(Ord. No. 574, §§ 1 – 3, 12-21-98; Ord. No. 689, §§ 1 & 2, 2-21-06; Ord. No. 727, § 1, 8-17-09)

APPENDIX D. LAND SUBDIVISION ORDINANCE

Copies of the 2012 Revised Subdivision Ordinance of the City of Dell Rapids are available from the City Administrator or on the City's official website: http://www.cityofdellrapids.org/.

***Editor's note--**Ord. No. 762, adopted July 2, 2012, repealed the former Ordinance No. 373, and enacted new regulations for the subdivision of land within the City of Dell Rapids and in the extraterritorial area described in the City's Major Street Plan.

State law reference(s)—Platting of Townsites, Additions and Subdivisions, SDCL 11-3; Municipal Planning and Zoning, SDCL 11-4; and Comprehensive City Planning, SDCL 11-6.
