

## **TITLE I: ADMINISTRATIVE CODE**

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### **Chapter 1-1: City Council Meetings**

- 1-1-1        Regular and Special Meetings. On the 1<sup>st</sup> Monday of each month at 7:30 p.m. or at a time and date to be determined and advertised in advance, the City Council shall meet at the City Office or other designated place, to consider, take under advisement, and act upon such business as may come before it. Special meetings may be called at any time by the Mayor or, in his/her absence or inability to act or refusal to act, by the President of the Council or by three (3) of the Alderman. (SDCL 9-8-8)
  
- 1-1-2        Notice of Regular and Special Meetings. The municipal Financial Officer shall issue written notice of any regular or special meeting, with the proposed agenda, at least 24 hours prior to any meeting by posting a copy of the notice, visible to the public, at the City Office. The notice shall also be posted on the city website, if such a website exists. For any special or rescheduled meeting the information in the notice shall be delivered in person, by mail, by email or by telephone to members of the local news media who have requested notice. For special and/or rescheduled meetings, the city shall also comply with the public notice provisions of this section for a regular meeting to the extent that circumstances permit. (SDCL 1-25-1.1)
  
- 1-1-3        Adjournment of Meetings. Any regular or special meeting may be adjourned to meet at a later date to be fixed at the time of adjournment.
  
- 1-1-4        Quorum, Majority Required for Action. A majority of the alderman of the City Council shall constitute a quorum. When a seat on the Council is vacant due to removal, resignation, death, or by operation of law, the quorum consists of the majority of the remaining alderman. (SDCL 9-8-8)
  
- 1-1-5        Record of Meetings. Meetings of the City Council shall be open to the public, unless otherwise allowed by law, and the City Council shall keep a written record of its proceedings.
  
- 1-1-6        Votes. The yeas and nays shall be recorded by individual upon the passage of all ordinances and upon any proposal to expend or appropriate money, and in all other cases at the request of any member. (SDCL 9-8-10) No municipal official(s) may participate in discussions or vote on any issue in which the official(s) have a conflict of interest and/or if the following circumstances apply: 1) the official has a direct monetary interest in the matter before the City Council; or 2) at least two-thirds of

the City Council vote that an official has an identifiable conflict of interest that should prohibit such official from discussions or votes on the matter. If a municipal official with a conflict of interest participates in discussion or votes upon a matter before the City Council, the legal sole remedy shall be to invalidate the official's vote. (SDCL 6-1-17)

## **Chapter 1-2: City Council/Governing Body**

1-2-1 Class of Municipality. The City of Roscoe shall be considered a third class municipality with a population less than 500. (SDCL 9-2-1)

Change of Classification. The City of Roscoe may change its classification if the territory of the municipality has changed substantially since the last preceding census. The governing body by resolution may authorize and direct its finance officer to determine the population by filing in his or her office a certificate showing the whole number of persons who voted at the last preceding annual municipal election, which number multiplied by three shall constitute the population for the purpose of classification until the next federal census shall have been completed. (SDCL 9-2-2)

1-2-2 Form of Government/Composition. Roscoe has an Aldermanic form of government. The City Council shall consist of seven (7) members, two (2) alderman from each Ward and one (1) mayor. (SDCL 9-2-3 and 9-8-4)

City Council Qualifications. A City Council member must be a citizen of the United States, a qualified voter of Roscoe and an individual residing within the city limits of Roscoe for a minimum of three months prior to his/her election or appointment. No person may be a member of the City Council who owes money to the municipality or is delinquent on any funds owed the municipality of Roscoe. (SDCL 9-14-2)

1-2-3 President and Vice President of the Council. At the first regular meeting after the annual election in each year and after the qualification of the newly elected alderman the council shall elect from among its members a president and vice president, who shall hold their respective offices for the municipal year. (SDCL 9-8-7)

In the absence of the mayor, the President of the council acts as the presiding officer of the council and has all the powers of the mayor. In the absence of the Mayor and the President of the council, the Vice President of the council shall perform the duties of the mayor and President of the council. However, the President or Vice President of the council acting as the mayor shall only vote as an alderman. No alderman acting as mayor may vote as the mayor to break a tie.

1-2-4 Mayor - Duties. The Mayor presides at all meetings of the council but only votes in the case of a tie. The Mayor performs other duties as may be prescribed by the laws

and ordinances. The Mayor may sign or veto any ordinance or resolution passed by the council, and may veto any part or item of an ordinance or resolution appropriating money.

1-2-5 Vacancies. If a vacancy occurs for a City Council seat, the remaining members shall appoint a replacement to serve until the next annual municipal election, except as described below.

- A. If any member who is incapacitated by illness or an accident which causes the member to be unable to attend meetings of the City Council or fulfill the duties of the office, the member may elect to temporarily resign from the governing body. Notice of such shall be in writing to the Municipal Finance Officer. If the member or officer is unable to give notice, the member's/officer's spouse or guardian or any person having durable power of attorney for the member or officer may give notice of resignation. A temporary member may then be appointed by the remaining members who shall serve until the member or officer is able to fulfill the requirements of office or until the expiration of the member's term, whichever comes first. (SDCL 3-4-9)
- B. If any City Council member is also a member of the National Guard or reserved component of the armed forces of the United States and is called into active duty which causes the member to be unable to attend meetings of the City Council, the member may elect to temporarily resign from the City Council. Notice of temporary resignation shall be in writing to the Finance Officer. A temporary replacement shall then be appointed by the remaining members. The temporary member shall serve until the member returns from active duty or until the expiration of the member's term, whichever occurs first. (SDCL 3-4-8)
- C. Any appointee to fill an unexpired term must meet the qualifications as identified in 1-2-2.

### **Chapter 1-3: Officers, Bonds, Salaries and Compensation**

1-3-1 Appointment of Officers. Such officers as needed and provided for by ordinance shall be appointed. Each appointive officer shall be appointed by the mayor with the approval of the council. The City Council may by resolution enter into a contract pursuant to SDCL Ch. 9-14 with an attorney to provide legal services to the City as the City Attorney. (SDCL 9-14-3)

Supervision of Departments. The Mayor may appoint the members of the City Council as he deems desirable to supervise departmental operations and accomplish an efficient division of the work and duties to be performed by the Council.

City Employees Not Provided by Ordinance. All full and part-time employee positions, including seasonal, to be hired by the municipality shall be approved in

advance by a majority vote of the governing body. Supervisory capacity of said positions shall be determined at that time.

1-3-2 Certificates of Appointment. All appointed officers, except the Finance Officer, shall be commissioned by warrant under the corporate seal, signed by the Mayor and Finance Officer. The Mayor shall issue a certificate of appointment under the seal of the municipality to the Finance Officer. (SDCL 9-14-4)

1-3-3 Vacancies, How Filled. In case of vacancy for any cause in the office of Finance Officer, Maintenance Operator or any other appointive office, the City Council shall fill the vacancies.

1-3-4 Removal of Appointed Officer. The City Council shall have the power to remove from office any officers or employees appointed by the City Council whenever it shall be of the opinion that the interests of the City demand such removal. Such removal shall be by majority vote of the City Council.

1-3-5 Certain Officers Not to Hold Other Office. No Mayor or Finance Officer shall hold any other office under the municipality while an incumbent of any such office. If a Council member holds any office other than that of Council member, he/she must abstain from voting on issues of importance to that office.

1-3-6 Compensation. The annual salary of the Mayor, alderman and appointed officers and employees shall be set by resolution of the City Council at the regular meeting in September and become effective in January. (SDCL 9-14-28)

Rate of Pay and Overtime. The municipality, in reference to employees of the City of Roscoe, shall comply with applicable state or federal wage and hour laws.

Employee Benefit and Personnel Issues. Employee benefits and other personnel type issues shall be those set forth in the city's personnel policy manual.

1-3-7 Bonds. The Financial Officer shall be bonded in such sum to be approved by the City in accordance with state law, conditioned for the faithful performance of the duties of such office. The bond costs shall be payable by the municipality. (SDCL 9-14-6.1)

#### **Chapter 1-4: Law Enforcement – Fire Department**

1-4-1 Provision for Law Enforcement. Law enforcement in the City of Roscoe shall be as provided by the Edmunds County Sheriff's Department or as otherwise agreed upon or arranged by the City Council.

1-4-2 Fire Department. The Roscoe Volunteer Fire Department shall be the designated Fire Department for the City of Roscoe.

## **Chapter 1-5: Ordinance and Resolution Regulations**

1-5-1 Ordinance Control Authority. The City Council shall have the authority to make, publish, ordain, amend and repeal all such ordinances, bylaws and police regulations, not contrary to the Constitution of the United States and the laws of this State, for the good government and commerce of the City as may be necessary to carry into effect the powers vested in the City Council or any officer of said City by this act.

1-5-2 Rules and Regulations Regarding Enactment of Ordinances and Resolutions. All ordinances of the City shall be passed pursuant to such rules and regulations as the City Council may prescribe provided that upon the passage of all ordinances the yeas and nays shall be entered upon the record of the City Council. A majority of the votes of all the members of said Council present shall be necessary to their passage, provided a majority of all the members elected shall constitute a quorum for the transaction of business.

A. All ordinances of the City may be proven by the ordinance book or the certificate of the City of Roscoe under the seal of the City, if there be such seal, and, when posted or published in a book or pamphlet form and purporting to be published or printed by authority of the City, shall be read and received in all courts and places without further proof.

B. The style of all ordinances shall be as follows:  
"An ordinance (inserting the title)" followed by: "Be it ordained by the City of Roscoe" followed by the substance of the ordinance.

D. An ordinance must embrace but one subject, which shall be expressed in its title.

E. All ordinances shall be read twice with at least five (5) days intervening between the first (1<sup>st</sup>) and second (2<sup>nd</sup>) reading, shall be signed by the Mayor or representing alderman, filed with the Finance Officer, and published once, except that an ordinance incorporating and adopting comprehensive regulations or a code promulgated, approved, and published by a recognized and established national organization prescribing building, electrical, plumbing, safety, fire, or health need not be published in a newspaper, but upon adoption of such an ordinance, the Finance Officer shall publish a notice of the fact of adoption once a week for two (2) successive weeks in the official newspaper, and twenty (20) days after the completed publication of such notice, unless the referendum shall have been invoked, such ordinance shall become effective. (SDCL 9-19-7)

F. Except such resolutions or ordinances as may be necessary for the immediate preservation of the public peace, health, safety, or support of the municipal government and its existing public institutions, or which provide for an election,

or for hearing on an improvement or assessment, or which call for bids, which take effect on the twentieth (20<sup>th</sup>) day after its publication unless suspended by operation of a referendum. (SDCL 9-19-13)

G. A resolution may be passed after one (1) reading. It shall be recorded at length in the minutes of the meeting at which it is passed with a statement of the number of votes for and against the same. It shall be published in full as part of the minutes. (SDCL 9-19-8)

1-5-3 Expansion of Powers Beyond Existing Ordinances. When by State law the power confirmed upon the Mayor and Council to do and perform any act or things and the manner of exercising the same is not specially pointed out, the Mayor and Council may provide, by ordinance, the details necessary for the full exercise of such powers.

### **Chapter 1-6: Finance Regulations**

1-6-1 Revenues and Special Funds. All money belonging to the City from taxation, licenses, fines, permits, the operation of utilities, or from any other source, shall be paid into the City treasury, and the City Council shall designate by ordinance to what fund or funds such money shall be applied. The Finance Officer shall keep full, true and just accounts of all financial affairs of such form and in such manner as from time to time is required by the South Dakota Department of Revenue. (SDCL 9-14-18)

1-6-2 Records Retention and Destruction. The Records Retention and Destruction Schedule Manual, authorized for South Dakota municipalities by the Office of Records Management, Bureau of Administration, State of South Dakota, shall be adopted by the City Council, and a printed copy of such manual shall be filed with the Finance Officer.

1-6-3 Annual Reports by Boards. Each of the boards appointed, if any, and acting for the City shall make an annual report of its receipts, disbursements and activities to the City Council as soon as practicable after the close of the fiscal year. Such reports are to be filed with the Finance Officer.

1-6-4 Sale of Personal Property. Whenever the City deems it necessary in the best interest of the City that personal property belonging to the City be sold, said property having been abandoned or about to be abandoned for public use, said property shall be sold to the highest bidder upon such terms as may be determined by the City Council.

Notice of such sale shall be given by publication once a week for two successive weeks in the official newspaper of the City, which said notice shall contain a description of the personal property to be sold at the time and place where bids shall be received by the City Council for said sale: and the City Council may at such time sell said personal property to the highest bidder therefore, or may, in its discretion, reject the bids.

1-6-5        Claims. All claims against the City shall be in writing and upon forms provided by the Finance Officer and in such form as required by statute of the State of South Dakota. Prior to passage or payment by the City Council, claims shall bear the approval of the City Council.

1-6-6        Supplies. The Finance Officer shall purchase supplies, shall have charge thereof, and shall make all sales there from; provided no purchase involving an expenditure of more than \$200 shall be made without the consent of the City Council being first obtained. The Maintenance Operator may purchase supplies up to \$1,000 without previous approval of the City Council. A bill with the price thereof shall immediately be filed with the Finance Officer, and shall bear the endorsement of such officer or agent showing in what respect, if any, the material or articles failed to correspond with the material or article ordered.

## **TITLE 2: BOUNDARIES, WARDS AND PRECINCTS**

Chapter 2-1 Boundaries

Chapter 2-2 Wards and Voting Precincts

### **Chapter 2-1: Boundaries**

2-1-1            Boundaries. The corporate limits of the City are declared to be such as have been legally established and amended by law and ordinances of the City as shown on the official map on file in the office of the Finance Officer. Such map shall be incorporated in this ordinance by reference and adopted as the official map showing the boundaries and limits of the City (SDCL 9-3-2)

### **Chapter 2-2: Voting Precincts**

2-2-1            Voting Precincts. The City shall be comprised of one election precinct for the purpose of holding all municipal elections. The Fire Hall shall be the voting place, unless another voting place is so designated.



## TITLE 3: HEALTH AND SANITATION

Chapter 3-1 Nuisances

Chapter 3-2 Collection of Garbage

### Chapter 3-1: Nuisances

3-1-1 Definitions. For the purpose of this Chapter, the following terms are hereby defined.

- A. Garbage. The animal and vegetable waste resulting from the handling, preparation, cooking and serving of foods.
- B. Solid Waste. Any garbage, refuse, sludge from waste treatment plant, water supply treatment plant or air pollution control facility and other discarded materials, including solid, liquid, semisolid or contained gaseous material resulting from industrial, commercial and agricultural operations, and from community activities, including, but not limited to, wood and other construction materials, appliances, yard waste, tires, scrap iron, chemicals or fuel. (SDCL 34A-6-1.2)
- C. Wastewater. 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 storm water that may be present.
- D. Abandoned property. Any junk car, car bodies or equipment of any type, except in an authorized junk yard, or any accumulations of other unsightly trash or junk which would constitute a health hazard, a rodent harborage, a breeding area for insects or rodents, a dangerous place for children to play in and around or which tends to be unsightly and which does or tends to lower the value of adjacent real property because of its unsightliness.
- E. Abandoned vehicle. Any vehicle that is left unattended or stored on any public property in the same or substantially same place within the City for a longer period than 24 hours.
- F. Inoperable vehicle. Any vehicle which is not in operational condition due to damage, removal or inoperability of one or more tires and wheels, the engine or other essential parts required for the operation of the vehicle, or which does not have lawfully affixed thereto unexpired license plates, or which constitutes an immediate health, safety, fire or traffic hazard.
- G. Nuisance. Unlawfully doing an act, or omitting to perform a duty, which act or omission: (1) annoys, injures, or endangers the comfort, repose, health or safety of others; (2) in any way renders other persons insecure in life, or in the use of property; (3) renders the ground, the water, the air, or food a hazard or any injury to human

health; and in addition (4) the specific acts, conditions and things listed in Section 3-1-2 are hereby declared to constitute public nuisances, but such acts, conditions and things shall not be deemed to be exclusive (SDCL 21-10-1)

- H. Private property. Any real property within the City that is privately owned and which is not public property.
- I. Public property. 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 also means any other publicly owned property or facility.
- J. Removal agency. Any public body, private or nonprofit organization authorized, hired or appointed by the City to remove and salvage vehicles.
- K. Unightly trash or junk. Property which is deteriorated, wrecked or derelict property in unusable condition, having no value other than nominal scrap or junk value, if any, and which is left outside of a permanent, enclosed structure and which shall include, without limitation, motors, lawn mowers, campers, refrigerators and other household appliances, furniture, household goods and furnishings, scrap metals or lumber or other similar articles in such condition.
- L. Vehicle. Any conveyance, whether or not self-propelled, and which is designed to travel along the ground or in or on the water and shall include, but is not limited to, automobiles, buses, motorbikes, motorcycles, motor scooters, trucks, tractors, pull trailers, go-karts, golf cars, boats, jet skis, campers and trailers.

3-1-2

Acts, Omissions and Conditions Prohibited. No person, whether an owner, occupant, tenant or other person in charge of any real property within the corporate limits of the City shall create, commit, maintain, or permit to be created, committed, or maintained, any public nuisance, to include, without limitation, the following specific acts, conditions and things, each and all of which are hereby declared to constitute a nuisance: (SDCL 9-32-1)

- A. Depositing, accumulating, or permitting to be accumulated upon any public or private property, any household wastewater, sewage, garbage, refuse, rubbish, offal, excrement, decaying fruit, vegetables, fish, meat, bones; any fowl, putrid, or obnoxious liquid substance; any chemical or hazardous material; or decaying and non-decaying animal or vegetable wastes or solid wastes, or any other waste material which constitutes or tends to create a danger to public health, safety, and welfare. (SDCL 9-32-10, SDCL 34A-7-9)
- B. The accumulation of manure, garbage, or anything whatsoever which may be breeding areas for flies, mosquitoes, or rodents. (SDCL 9-32-10)
- C. The growth of weeds or plants declared to be primary or secondary noxious weeds by the State Weed and Pest Control Commission, all weeds declared to be locally

noxious by the City Council, and all other weeds and grasses growing upon any real property in the City to be a height greater than eight (8) inches, or which have gone or are about to go to seed, or the dense growth of brush or grasses which may constitute a health, safety or fire hazard, shall be deemed noxious, dangerous and unhealthful vegetation and are hereby declared to be a nuisance. Fallen tree limbs, diseased or dead trees, and dead tree limbs shall also be declared dangerous and a secondary noxious weed. (SDCL 9-32-12)

Weeds and plants being grown as hay for livestock consumption, as a native prairie display garden, or as a wildflower display garden, or other nature areas, so long as the same are approved to be used as such by the City Council, shall not constitute a nuisance.

- D. For the owner of a dead animal to permit it to remain undisposed of longer than twenty-four (24) hours after its death. (SDCL 9-29-13)
- E. Any excavation, trench, or open basement in which stagnant water is permitted to collect or which may jeopardize the life, limb, or safety of the general public. (SDCL 9-29-13)
- F. Throwing or letting fall on or permitting to remain on any street, alley, or public ground any manure, garbage, rubbish, filth, fuel or wood while engaged in handling or removing any such substance. (SDCL 9-32-10)
- G. Keeping or maintaining any building or enclosure where livestock or fowl are kept unless a special permit is requested and such is approved by the City Council. (SDCL 9-29-13)

To keep, pen, maintain, or pasture within one (1) block of any residence within the City any animals except bonafide pets except when penning is necessary for purposes of loading or shipping. When such keeping or penning is necessary for purposes of loading or shipping livestock, it shall be unlawful to keep or pen these animals within one (1) block of any residence of the City for more than twenty-four (24) hours.

Exceptions to this provision shall be those parcels of land within the limits of the City which are zoned as agricultural and have been in continual use for livestock purposes.

- H. Barbed Wire Fences. No person, firm, or corporation shall erect or maintain any barbed wire fence within the limits of the City. This shall not apply to any tract or tracts of land lying within the City designated and used exclusively for farming.
- I. Disposing of garbage, waste, or refuse by open burning, or causing, allowing, or permitting the conducting of a salvage operation by open burning in the City. The following types of open burning shall be permissible for a specific purpose when

conducted in conformity with the subsections set forth below:

1. Fires set for the elimination of a fire hazard, which cannot be abated by any other means when authorized by the Fire Chief of the City Volunteer Fire Department.
  2. Fires purposely set by the City maintenance personnel for the purposes as authorized by the Fire Chief of the City Volunteer Fire Department.
  3. Fires purposely set by the City Volunteer Fire Department personnel and authorized by the Fire Chief for the purpose of training and conducted in accordance with the live fire-training standards.
  4. Campfires and other fires used solely for recreational purposes, for ceremonial occasions, and for outdoor preparation of foods shall not exceed a total fuel area of three (3) feet in diameter and two (2) feet in height.
- J. Maintaining, or causing or permitting to remain, any building or premises which is determined to be dangerous or dilapidated. Any building or structure which has any or all of the conditions or defects hereinafter described shall be deemed to be a dangerous or dilapidated building, if such conditions or defects thereby annoy, injure or endanger the comfort, repose, health, or safety of others or, if such conditions or defects exist to the extent that the life, health, property, value of property or safety of the public or its occupants are jeopardized.
1. Whenever any building or structure is (i) vacant and unoccupied for the purpose for which it was erected and; (ii) the building is unfit for the occupancy as it fails to meet minimum housing standards and; (iii) the building has remained substantially in such condition for a period in excess of six months.
- K. Maintaining or permitting to be maintained on any private or public property any abandoned property or unsightly trash or junk, abandoned vehicle, or inoperable vehicle or parts thereof. It shall be unlawful to keep or place upon any private or public property any of such vehicles or vehicle parts, unless stored in a building or on an emergency basis. A carport, tarpaulin, tent, or other similar temporary structure shall not be deemed to satisfy the requirements of this section.
- In no event shall an inoperable vehicle that constitutes an imminent health, safety or fire hazard be kept or located on any real property.
- L. The requirements of 3-1-2 K shall not apply to the following:
1. One inoperable vehicle kept on private property without being shielded from public view if licensed and kept on a private driveway. If this inoperable vehicle is in a state of externally visible disrepair or disassembly, it shall not be kept on the private driveway longer than thirty (30) days.

2. Filling stations, automobile repair shops or any other motor vehicle related businesses in compliance with the applicable City ordinances may place inoperable vehicles being repaired or offered for sale on the premises.
3. Junkyards operated and maintained in compliance with applicable City ordinances.
4. Any vehicle specifically designed and used for operation on drag strips, raceways or derby cars that remains on private property.
5. Any vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the City or authorized by the City.

3-1-3

Diseased Vegetation. Any owner, occupant, or person in charge of any property under the jurisdiction of the City shall remove at his own expense any trees, brush, wood, or debris infected with disease or other infestations or infectious disease found thereon when so notified by the City to do so. The City Council shall cause to be mailed to such owner, occupant, or person, written notice that they may appear before the City Council at the next scheduled meeting to show cause why said trees, brush, wood, or debris should not be declared a nuisance.

At said meeting the City Council may resolve and declare the same to be a public nuisance and may order its removal by said owner, occupant, or person within twenty-one (21) days from the date of service of said resolution and order on said owner, occupant, or person.

3-1-4

Littering in Public Places. No person shall throw or deposit litter in or upon any street, sidewalk, or other public place within the City except in authorized public or private receptacles. The following further identifies acts and conditions that constitute nuisances and are therefore prohibited.

- A. No person shall sweep into or deposit in any gutters, streets, or other public place within the City, the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property or places of business shall keep the sidewalk in front of such premises free of litter.  
For purposes of this Chapter, a public nuisance shall also include snow and ice when deposited or allowed to accumulate in conflict with the provisions of this section.
- B. No persons, while a driver or passenger in a vehicle, shall throw or deposit litter upon any street or other public place or upon private property within the City.  
No person shall drive or move any truck or other vehicle within the City unless such vehicle is so constructed or loaded as to prevent any load, contents, or litter from being blown or deposited upon any street, alley, or public place.
- C. No person shall throw or deposit litter on any occupied, open, or vacant private property within the City, whether owned by such person or not, except that the owner

or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being deposited upon any streets, sidewalk, or other public place or upon any private property.

- 3-1-5 Removal of Abandoned or Inoperable Vehicles - Public Property. Whenever the City or any law enforcement officer for the City finds an abandoned or inoperable vehicle on public property within the City, a written notice shall be placed on the vehicle that it will be removed to a garage or place of safety unless the owner removes the vehicle from public property within 24 hours of the giving of the notice. After the expiration of the 24-hour period, the vehicle may be removed by a removal agency to a garage or place of safety. Nothing in this section precludes the City or any law enforcement officer for the City from immediately removing a vehicle that constitutes an imminent health, safety or fire hazard.
- 3-1-6 Disposal of Unclaimed Vehicles. The removal agency shall have the rights and obligations conferred upon it by South Dakota law in regard to titling or disposition of such unclaimed, abandoned or inoperable vehicle, except that, if not otherwise provided by state law, it shall have a possessory lien upon any vehicle removed under provisions of this chapter for the costs or reasonable charges in taking custody of and storing such vehicle.
- 3-1-7 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 or inoperable vehicle of any kind to remain on such property longer than thirty (30) days.
- 3-1-8 Notice Procedure. A written notice shall be placed on the abandoned or inoperable vehicle by the City or by any law enforcement officer for the City requesting the removal of such motor vehicle in the time specified in this chapter. Written notice shall be given to the owner of the property by certified mail or first-class mail requesting the removal of such motor vehicle in the time specified in this chapter.
- 3-1-9 Responsibility for Removal. Upon notice having been given, the owner of the abandoned or inoperable vehicle and the owner or occupant of the private property on which the vehicle is located, either or all of them, shall be responsible for its removal.
- 3-1-10 Content of Notice. The notice in section 3-1-8 shall request removal of the abandoned or inoperable vehicle within thirty (30) days after the date of the posting or mailing of such notice, and the notice shall advise that failure to comply with the notice to remove shall be a violation of this Chapter, that the City may take steps to abate the same, and that in addition to abatement directly or by civil action, the City may pursue criminal fines and penalties against the owner, occupant, tenant or other person in charge of the real property as provided in this Chapter.
- 3-1-11 Public and Private Nuisance Defined. A public nuisance is one that affects at the

same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon the individuals may be unequal. Every other nuisance is private. (SDCL 21-10-3)

3-1-12 Remedies Against Nuisances. The Remedies against any nuisance shall be: (1) A civil action; (2) Abatement; and (3) In cases of public nuisance only, the additional remedy of indictment or information as prescribed by this Chapter or by South Dakota law, and the rules relating thereto. (SDCL 21-10-5)

3-1-13 Abatement. A public nuisance may be abated without civil action by the City Council or by any officer authorized thereto by law. Any private person may likewise abate a public nuisance which is especially injurious to him or her, or any private nuisance injurious to him or her by removing, or, if necessary, destroying that which constitutes the nuisance, without committing a breach of the peace or doing unnecessary injury. If a private nuisance results from a mere omission of the wrongdoer, and cannot be abated without entering upon his or her land, reasonable notice shall be given to him before entering to abate it. The City may defray the cost of abating a public nuisance by taxing the cost thereof by special assessment against the real property on which the nuisance occurred. When the nuisance abated is an unsafe or dilapidated building, junk, trash, debris or similar nuisance arising from the condition of the property, the City may commence a civil action against the owner of the real property for its costs of abatement in lieu of taxing the cost by special assessment (SDCL 21-10-6)

3-1-14 Public Nuisance Penalty and Remedy. The City may use the remedies of civil action and abatement as set forth in SDCL 21-10-5 through 21-10-9, as well as any other remedies available by law.

3-1-15 Notice of Violations. Whenever the City has determined that there has been a violation of this code or has grounds to believe that a violation has occurred, notice shall be given to the owner or the person(s) responsible as prescribed below.

A. Such notice shall:

1. Be in writing;
2. Include a legal description of the real estate sufficient for identification;
3. Include a statement of the violation or violations and why the notice is being issued;
4. Include an order to correct the violation and bring the property into compliance with the provisions of this Code within a specified, reasonable amount of time. Notice and continuing order to cut

weeds and grass may be given at the beginning of or during the growing season and shall require the owner or person responsible for the property, within seven days after the mailing thereof or within two days after personal delivery thereof and at all times subsequent during the growing season as may be necessary, to cut and remove all weeds and grass as described in section 3-1-2(C).; and

5. Inform the property owner of the right of appeal.

B. Such notice shall be deemed to be properly served if a copy thereof is:

1. Delivered personally;

2. By leaving the notice and order with a family member of a property owner or occupant over the age of 14 years who is upon the property;

3. Sent by certified mail, with return signature, addressed to the last known address of the property owner or occupant;

4. By electronic mail if a course of dealing in such communication has been established with and accepted by the property owner or person responsible for the property; or

5. If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure or premises affected by the notice.

### **Chapter 3-2: Collection of Garbage**

3-2-1 Definitions. The following definitions shall define the terms used in this Chapter.

A. Bulky Items. Large items such as white goods or furniture.

B. Commercial Solid Waste. Solid waste generated by stores, offices, restaurants, warehouses, printing shops, service stations, and other non-manufacturing, non-household sources.

C. Garbage. Solid and semisolid putrefiable animal and vegetable wastes resulting from the handling, preparing, cooking, storing, serving, and consuming of food or of material intended for use as food, and all offal, excluding useful industrial by-products, from all public and private establishments and from all residences.

D. Household Waste. Solid waste derived from households, including single and



multiple residences, but not waste from commercial activities that is generated, stored, or present in a household.

- E. Rubble. Stone, brick, concrete, or similar inorganic material, excluding ash, waste tires, and asbestos-containing waste materials.
  - F. White Goods. Discarded refrigerators, ranges, washers, water heaters, and other similar domestic and commercial appliances.
- 3-2-2 Removal of Garbage, Household Waste. The owner, resident, operator or member of each individual household or residence, multi-family dwelling, within the City shall utilize the collection service provided by the City for the regular removal and disposal of all garbage, and household waste. No owner, operator or member of an individual household or residence, multifamily dwelling, shall attempt to dispose of garbage, and household waste other than by collection by the City or the City's designated contractor.
- 3-2-3 Removal of Garbage, Commercial Waste. Commercial businesses, schools, churches and nonprofits within the City may choose not to use the City provider, if they are able to make other accommodations for the removal of their garbage.
- 3-2-4 Garbage Fee. The City contracts for garbage services and all associated fees are assessed to each household or residence, by the contracted waste provider. If a residential property is connected to municipal water, it must also be served by the contracted waste provider.
- 3-2-5 Removal of rubble, Bulky Items, and White Goods. Each person and/or business may remove their own rubble, bulky items, and white goods, provided the rubble, bulky items, and white goods are disposed of in an appropriately permitted facility.
- 3-2-6 Garbage Pickup. All garbage and household waste shall be placed for collection in the specified area and in the appropriate containers as designated by the contracted waste provider.
- 3-2-7 Restricted Use Site. The City operates a restricted use site in accordance with South Dakota rules and regulations. Items that will be accepted at the restricted use site will be posted and may change from time-to-time.

## **TITLE 4: LICENSES**

- Chapter 4-1 General Provisions
- Chapter 4-2 Alcoholic Beverages
- Chapter 4-3 Adult Businesses

- Chapter 4-4 Peddlers
- Chapter 4-5 Dogs / Cats
- Chapter 4-6 Junk Dealers
- Chapter 4-7 Auctioneers, Sale Rings and Transient Merchants

**Chapter 4-1: General Provisions**

- 4-1-1 Licenses Required. No person shall engage in any activity for which a license is required, or for which a fee is prescribed, by this Chapter or other ordinance, without first having obtained such license.
  
- 4-1-2 Application for License. Any person, persons, firm or corporation wishing to obtain a license as herein provided, shall make written application to the City Council stating the name of the applicant, address, purpose of the activity, the length of time for which said license is wanted, and the particular place at which said license is to be used.  
  
Fees for all licenses shall be fixed by the City Council where not specified in this Chapter, and all license fees shall be paid in full at the time of application in such manner as approved by the City Council.
  
- 4-1-3 License Expiration. All annual licenses granted under the provisions of this chapter shall expire on the 31st day of December next following the granting thereof, except as in this chapter otherwise provided, and shall not be granted for any sum less than the annual rate, and there shall be no rebate made on the termination of said calling, vocation, or kind of business for which said license was issued.
  
- 4-1-4 Revocation. The City Council shall have power at any time to suspend or revoke any license granted under the provisions of this ordinance whenever the City Council shall be satisfied upon written complaint that any such calling, vocation, or kind of business for which said license has been issued has been made or conducted in an indecent, indecorous, improper, or illegal manner, or for failure of the licensee to comply with any ordinance or regulation of the City or State law respecting such license or the manner of exercise thereof or for other good cause, after hearing upon notice to the licensee.
  
- 4-1-5 Issuance of License. Except as otherwise provided, all licenses shall be issued by the Finance Officer after it has been approved by the City Council and the applicant shall have complied with all requirements for issuance of such license. Unless otherwise provided, all licenses shall be signed by the Finance Officer and shall have affixed thereto the official seal of the City.
  
- 4-1-6 Record of Licenses. The Finance Officer shall keep a record of all licenses issued by the City stating when and to who issued, for what purpose and for what length of time, the amount of money paid for said license, and the place where such activity is to be carried on. (SDCL 9-34-1)

## **Chapter 4-2: Alcoholic Beverages**

- 4-2-1        License Required. No person shall sell, offer for sale, keep for sale, exchange, distill, manufacture, produce, bottle, blend, or otherwise concoct, within the City, any alcoholic beverages as defined by statute, without having a license as required by South Dakota law. (SDCL 9-29-7)
- 4-2-2        Restrictions. Licenses for the sale of alcoholic beverages or malt beverages in the City of Roscoe shall be submitted as prescribed by the South Dakota Codified Laws, as amended. The number of licenses approved by the City Council will not exceed the limits set by South Dakota Codified Laws 35-4-10 and 35-4-11.
- 4-2-3        Application and License Fees. In any instances in which applications may qualify, applications for licenses for the sale of wine and malt beverages and temporary licenses in the City shall be submitted as prescribed by South Dakota law. (SDCL 35-2)
- 4-2-4        Location of Business. The City Council shall not issue any licenses to any person(s), business or group where the location of such a business would not be considered desirable in accordance with South Dakota law and local regulations. (SDCL 35-2-6.1, SDCL 35-2-6.2)
- 4-2-5        Hours of Business. No person or business operating with an on and off-sale liquor operating agreement, on and off-sale wine and malt beverage license including retailer and package dealers, restaurant license, or special events/temporary alcohol license may sell, serve or allow to be consumed any alcoholic beverage between the hours of 2:00 a.m. and 7:00 a.m. (SDCL 35-4-81 and 35-4-81.2)
- 4-2-6        Sanitation Facilities. Every onsale dealer shall maintain upon his licensed premises toilets properly connected with the City sewer system with separate facilities for men and women. In each such facility there shall be maintained running water and towels for use by the users of such facilities, or approved sanitary drying facilities. Every licensee shall have such facilities equipped and maintained so as to pass state and/or local health requirements at all times. (SDCL 34-18-22)
- 4-2-7        Alcohol Beyond Premises. It shall be unlawful for any licensee who is authorized by law to sell alcoholic beverages within the City of Roscoe to allow any person to take beyond the enclosed premises so licensed any unsealed can, bottle, glass, pitcher, container, or package of any kind containing alcoholic beverages.
- 4-2-8        Sale or Gift to Minors. No person shall sell or give any alcoholic beverages to any person under the age of twenty-one (21) years.
- 4-2-9        Establishment of Municipal Liquor Store. The governing body of the City of Roscoe

is empowered to establish a municipal liquor store at local option under the guidelines set forth in Title 35, Chapter 3, of the South Dakota Codified Laws.

4-2-10 Municipal Liquor License. The municipal liquor license can be leased by the City to a private individual. The lease agreement between these two parties shall contain all requirements and conditions and shall be kept on file at the office of the Finance Officer.

4-2-11 Alcoholic Beverage Licensees– Video Lottery Fee. There is hereby imposed on any establishment in the City of Roscoe, who is issued a video lottery license, an annual additional license fee for the privilege of locating video lottery machines on the licensed premises. The fee is on file in the office of the Finance Officer and shall be paid at the same time and in the same manner as the fees paid in SDCL 35-4-2. All fees received under this Section shall be deposited into the general fund of the City of Roscoe.

4-2-12 Violations. Any person, firm, or licensee in violation of any of the provisions of this Chapter shall be deemed guilty of a misdemeanor. Each day, after notice, that such person, firm or licensee fails to correct any violation shall constitute an additional separate offence. Whenever any person acting as clerk, servant, agent, or employee of any other person or establishment has violated any of the provisions of this Chapter that person shall also be deemed guilty as a principal. Failure to comply with all existing requirements, including the provisions in this Chapter, shall provide cause for revocation of any license granted under the provisions of South Dakota law. (SDCL 35-2-10)

### **Chapter 4-3: Adult Businesses** (SDCL 11-2)

4-3-1 Adult Uses. It is recognized that there are some businesses which because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several of them are concentrated thereby having an adverse effect of adjacent areas. To ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhoods/area.

A. None of the following permitted uses may be established, operated or maintained within one-quarter (1/4) mile of a residential district, a church, a school meeting all of the requirements of the compulsory education laws of the state of South Dakota, or a public park:

1. Adult Bookstore, adult theater, or adult photo studio.
2. Any use which has as a part of its operation adult entertainment or amusement, including but not limited to, a restaurant or eating place, a bar, lounge or tavern.
3. Any use intended to provide adult amusement or entertainment.

- B. Not more than two of the following permitted uses may be established, operated or maintained within one-quarter (1/4) mile of each other as measured from the closest point of the outside wall of the building, or tenant space.
  - 1. Adult bookstore, adult theater, adult photo studio, liquor store, or bar.
  - 2. Any use which has as part of its operation adult entertainment or amusement including, but not limited to, a restaurant or eating place, a bar, lounge or tavern.
  - 3. Any use intended to provide adult amusement or entertainment.
- C. The one-quarter (1/4) mile restriction provided for in 4-3-1(B) may be waived and a permit issued upon proper application if the City and County find:
  - 1. That the proposed use will not be contrary to the public interest or injurious to nearby properties and that the spirit and intent of these ordinances shall be observed.
  - 2. That the proposed use not be at a place of business, or premises licensed for the sale of alcoholic beverages.
  - 4. That the proposed use be open for business only during regular business hours between 8:00 a.m. and 1:00 a.m. Monday through Saturday and 1:00 p.m. to 6:00 p.m. on Sunday.
  - 5. That all applicable SDCL, county and municipal ordinances be observed by said business.

#### **Chapter 4-4: Peddlers**

4-4-1 Definitions. For the purpose of this Chapter, the following terms are hereby defined.

- A. "Peddler" - 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 of goods, products 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.
- B. "Temporary business" - shall not include bona fide garage or rummage sales which are not conducted at the same location more than four times per year; the duration of each sale shall not exceed four days.

4-4-2 Application for License. Any peddler wanting to do business in the City shall complete and file an application with the Finance Officer containing the following:

1. Whether the applicant, upon a sale or order, receives payment or a deposit in advance of final delivery;
2. The period of time the applicant wishes to engage in business within the City;
3. The local and permanent addresses of the applicant;
4. The kind of goods, products, or services the applicant wishes to sell;
5. The last five cities or towns the applicant has worked in;
6. Proof of a valid, effective sales tax license; and
7. An application fee of \$50.00 to be paid to a City Law Enforcement Officer or the Finance Officer.

4-4-3 Granted License. The application shall be submitted to the City Council for review. If the City Council grants the license, it shall be issued to the peddler and valid until December 31<sup>st</sup> of that year. If the City Council does not grant the peddler a license, the Finance Officer shall refund the application fee to the applicant. The application may be renewed by filing a renewal application and the payment of a \$35.00 fee with the Finance Officer on or before December 31<sup>st</sup> of the year in question.

4-4-4 Exceptions. The provisions of this ordinance shall not apply to the following:

1. Solicitations, sales or distributions made by charitable, educational, or religious organizations.
2. Traveling salespersons doing business exclusively with retail merchants, manufacturers, jobbers or public officials.
3. Member of professions licensed by the state which have continuing education requirements.
4. Persons selling or delivering personal property to regular customers on established routes.

4-4-5 Unlawful conduct. The following conduct shall be deemed unlawful:

1. For any peddler to remain upon a premises after having been told by the owner or possessor of the premises to leave.
2. For any peddler to make false or fraudulent statements concerning the quality or nature of his goods, products, or services.

3. To enter upon any premises posted with a sign stating "No Peddlers Allowed" or "No Soliciting".
4. To engage in the business of peddling between the hours of 8 p.m. and 9 a.m., or anytime on Sunday, except by specific appointment or invitation.
5. For any peddler to engage in business within the City without first obtaining a license to do so.
6. For any peddler to fail to display his license upon the request of any person.

4-4-6 Revocation. Any license issued under the provisions of this Chapter may be revoked for the violation by the licensee of any provision of this Chapter or South Dakota law. Upon such revocation, such license shall immediately be surrendered to the City's Law Enforcement Officer or the Finance Officer.

#### **Chapter 4-5: Dogs / Cats**

4-5-1 License Required. Each animal over the age of three (3) months shall be licensed by the City. (SDCL 9-29-12)

4-5-2 Application for License. The owner or keeper of any animal three (3) months of age or older shall submit to the Finance Officer a license application for each animal, the license fee, and rabies immunization certification.

4-5-3 Terms of License Fees. The license fee will be determined by the City Council, and will be on file with the Finance Officer.

4-5-4 Tag Required for Pet. It shall be the duty of the Finance Officer at the time of issuance of the license herein provided for to furnish and deliver to said applicant a metallic tag for each dog or cat for which such license is issued, upon which tag shall be stamped or engraved the registered number of the dog or cat and the year when registered; and it shall then be the duty of the owner of the dog or cat to place a collar around the neck of such dog or cat so owned or kept by him on which collar shall be securely fastened the metallic tag so furnished by the Finance Officer; provided, that in case of the loss of any tag so issued, the Finance Officer is authorized to issue a duplicate thereof upon payment to him of the actual cost of same upon application being made therefore and upon satisfactory proof that such tag has been lost. It is the owner of the pet that is responsible to get the tag/license.

4-5-5 Proof of Inoculation. That in addition to the payment of the license fee as herein set forth, applicant shall exhibit to the Finance Officer a certificate by a registered veterinarian showing that such dog or cat has been inoculated against rabies and that said inoculation will be effective during the period for which the dog or cat is licensed.

- 4-5-6            Notification of Loss or Death of animal. The owner or keeper of the animal shall notify the City of the loss or death of such animal.
- 4-5-7            Record and File. The Finance Officer of the City shall keep in his/her office a register containing the names and general description of the dog or cat and the number of the license granted and shall issue a receipt for such payment, which must be presented to him/her for the numbered tag herein provided for.
- 4-5-8            Removing Collar. No person shall destroy the tag or remove that collar to which it is attached on any licensed dog or cat, nor shall any person wrongfully kill, maim, entice, or carry away any dog or cat licensed and collared as aforesaid.
- 4-5-9            Dogs and Cats Shall Not be Killed Promiscuously. No licensed dog or cat shall be killed without an attempt first been made by the Mayor or City Council to locate its owner, for which the owner shall pay said City upon surrender of his/her pet a fee determined by the City Council and on file with the Finance Officer.
- 4-5-10          Vicious Dogs and Cats. Any dog or cat that is known to be vicious or dangerous is hereby prohibited from being allowed to run at large in the City and shall be killed by or under the direction of the Mayor or City Council whether same is licensed or not.
- 4-5-11          Running at Large. It shall be unlawful for any person who keeps, harbors, maintains, or who has in his or her custody or under their control any dog or cat, to permit such dog or cat to run at large within the City.
- 4-5-12          Other Animals Running at Large. The running at large of horses, cattle, mules, asses, goats, sheep, swine, geese, turkeys, ducks, chickens, and other fowl upon the streets, alleys, and public grounds of the City shall be deemed and is hereby declared to be a nuisance.
- 4-5-13          Restrictions. All dogs and cats must be chained or so confined at all times during all the months of the year so as not to reach the sidewalk or onto another person's property.
- 4-5-14          Control Exception. Dogs and cats may be taken out for exercise on sidewalks or streets provided they are led on a chain or leashed by some person who is capable of controlling the animal.
- 4-5-15          Keeping of Predators. The keeping of predators such as skunks, foxes or raccoons as pets is not permitted.
- 4-5-16          Removal of Dangerous Animal. The City Council is empowered to instruct any person in the limits of the City to remove from said limits any animal deemed dangerous or a public nuisance.



4-5-17 Penalty: Dogs/Cats. Any person or persons violating any of the provisions of this chapter or evading or attempting to evade the provisions thereof, or who shall refuse to comply with the same, or who shall in any manner interfere with any law enforcement officer, or any person engaged in carrying out the provisions in this ordinance and in the discharge thereby shall, upon conviction thereof, shall be punishable by a fine set by the City Council and on file with the Finance Officer.

## **Chapter 4-6: Junk Dealers**

4-6-1 Definition. The terms “junk dealer” as used in this chapter shall mean any person, firm or corporation engaged in business as a junk dealer or trader in junk, old metals, rags, waste paper, green hides, old automobiles, or other articles which from their worn condition are rendered useless for the purpose for which made.

4-6-2 License Required. No person shall engage in business as a junk dealer as defined in this chapter without first having secured a license to do so.

4-6-3 Application for License. Any person desiring a license to engage in business as a junk dealer shall make a written application to the City Council which shall state the following:

A. The length of time applicant has resided in the City;

B. Applicant’s place of residence and previous employment;

C. The premises where the business is located. Such description shall be given by street number, or in case of a vacant lots(s), the same shall be designated by legal description together with the exact dimensions of the space to be occupied in any manner in the conducting of said business.

4-6-4 License Fee. Every junk dealer shall pay an annual license fee for each establishment or place of business that shall be set by the City Council and on file with the Finance Officer.

4-6-5 Granting of License. Upon filing of the application together with the necessary license fee, the City Council may grant a junk dealer’s license by majority vote if they deem such applicant a fit and proper person to engage in such business. The Finance Officer will then issue the license.

4-6-6 Revocation of License. The City Council may at any time, for cause and upon investigation, revoke any license granted under provision of this chapter. A reasonable notice of hearing will be given to the named licensee by personal service or by mail and by filing a copy of such notice with the Finance Officer. Whenever such license shall be revoked, no refund of any unearned portion of the license fee

shall be made.

4-6-7 Reports to be Made. Every junk dealer, upon being served with written notice to do so, shall report in writing to the City Council, either personally or through his/her designated representative, all goods, articles and things purchased or received in the course of his/her business as a junk dealer during such time period as specified in the notice. Such written report shall state the amount paid for each item and the name, residence and a general description of the person from whom such goods, articles, or other things were received.

4-6-8 Restrictions on Operations. Additional restrictions on junk dealer operations are as follows:

- A. No junk dealer shall carry on such business at any other place than the premises designated and described on the application and license. All junk of any kind shall be kept wholly within the boundaries of such premises with a seven (7') foot fence around the property where the junk is located.
- B. It shall be unlawful for any junk dealer to burn junk or refuse on the premises covered by said license or any other place in the City.
- C. If located outside the City limits and within one mile thereof, the entire business, including buying, selling, and storage must be conducted within a fence at least seven (7') feet high. Said business and fence must be located at least two hundred (200') feet from any public highway leading into the City.
- D. Wrecking and dismantling of old cars for the purpose of securing parts shall be done wholly inside the building occupied by said junk dealer or within the enclosure hereinafter provided and shall not in any event be done upon the highway or streets of the City or outside the premises described on the application and license.
- E. In all cases where the business of a junk dealer is to be conducted on a vacant lot(s) or in a partially enclosed structure, the City Council shall have the right to determine whether or not the appearance of the lot(s) distracts from the appearance of the area in which located. No license shall be granted until such lot(s) has been enclosed with a tight fence of at least seven (7') feet high or of a height sufficient to cut off public view. Such fence shall be suitably maintained and kept in good repair at all times. In no event shall any such license permit any advertising of any sort to be placed upon said fence, except that such license may use up to fifty (50') square feet for the purpose of advertising his/her business.

#### **Chapter 4-7: Auctioneers, Sale Rings and Transient Merchants**

4-7-1 Regulations. The businesses or trades of auctioneering and maintaining or establishing a business of operating a sale ring or sale barn are hereby declared to

be regulated by the City Council. No person shall exercise the business or trade of an auctioneer or sell any personal property, except household goods, livestock, and used farm machinery at public auction or outcry within the corporate limits of the City without first having obtained a license therefore from the Finance Officer as prescribed by the provisions of the chapter.

- 4-7-2 License. Any person, firm, or corporation desiring to operate, conduct, or manage a sale ring or sale barn shall first make application to the City Council for a license for the operation of such sale ring or sale barn; and for such license, if the same is granted, the fee shall be due and payable on a yearly basis, and said fee shall be valid for one (1) year after date of issue.
- 4-7-3 License Fee: Auctioneers, Sale Rings and Transient Merchant. The license fee prescribed by this chapter shall be set by the City Council and on file with the Finance Officer.
- 4-7-4 Exception. All sales at auction by virtue of legal process shall and hereby are excepted from the provisions of this chapter.
- 4-7-5 Supervision. The said sale ring or sale barn shall be supervised by the Mayor and Fire Department of the City, the special rules of any or all of which shall be complied with; and the premises of said sale ring or sale barn shall be kept reasonably free of all manure, filth, loose and unbaled straw, or other unbaled forage feed. The said premises shall be kept sprayed at the expense of the licensee to prevent breeding of flies and other pests.
- 4-7-6 Transient Merchant. No transient merchant, or dealer not regularly a resident of the City shall be allowed to sell within any sale ring or sale barn licensed hereunder or anywhere in the City any merchandise, goods, or wares without first having obtained a license from the Finance Officer; and such license shall be granted only after the payment to the City of the fee set by the City Council and on file with the Finance Officer. After said license is granted, it shall only be valid for two (2) consecutive days.
- 4-7-7 Penalty: Auctioneers, Sale Rings and Transient Merchant. Any violation of any of the provisions of this chapter shall be punishable by a fine set by the City Council and on file with the Finance Officer.

## TITLE 5: OFFENSES

Chapter 5-1 Offenses Against Public Welfare

Chapter 5-2 Firearms and Fireworks

Chapter 5-3 Animals

Chapter 5-4 Private Pools

Chapter 5-5 Remote Control Vehicles

### **Chapter 5-1: Offenses Against Public Welfare**

5-1-1 Disorderly Conduct. A person shall be guilty of disorderly conduct if, with the purpose of causing public danger, alarm, disorder, nuisance, or if his conduct is likely to cause public danger, alarm, disorder or nuisance, he willfully does any of the following acts in a public place:

- A. Commits an act in a violent and tumultuous manner toward another whereby that other is placed in danger of life, limb or health.
- B. Commits an act in a violent and tumultuous manner toward another whereby the property of any person is placed in danger of being destroyed or damaged.
- C. Causes, provokes or engages in any fight, brawl or riotous conduct so as to endanger the life, limb, health or property of another, except in exhibitions duly authorized and licensed by law.
- D. Interferes with another's pursuit of a lawful occupation by acts of violence.
- E. Obstructs, either singly or together with other persons, the flow of vehicular or pedestrian traffic and refuses to clear such public way or place when ordered to do so by a law enforcement officer or other authorized official.
- F. Is in a public place under the influence of an intoxicating liquor or drug and in such a condition as to be unable to exercise care for his/her own safety or the safety of others.
- G. Resists or obstructs the performance of duties by a law enforcement officer or other authorized official.
- H. Incites, attempts to incite, or is involved in attempting to incite a riot.
- I. Addresses abusive language or threats to any law enforcement officer, or any other authorized official of the City who is engaged in the lawful performance of his duties, or any other person when such words have direct tendency to cause acts of violence.
- J. Damages, befouls or disturbs public property or the property of another so as to

create a hazardous, unhealthy or physically offensive condition.

- K. Makes or causes to be made any loud, boisterous, and unreasonable noise or disturbance to the annoyance of any other persons nearby, or near to any public highway, road or common, whereby the public peace is broken or disturbed or the traveling public is annoyed.
- L. Fails to obey a lawful order to disperse by a law enforcement officer or other authorized official, where one or more persons are committing acts of disorderly conduct in the immediate vicinity, and the public health and safety is imminently threatened.

As used above, the following definitions shall apply:

- A. Public Place. Any place to which the general public has access for business, entertainment, or other lawful purpose, but does not necessarily mean a place devoted solely to the use of the public. It shall also include the front or immediate area of any store, shop, restaurant, tavern or place of business and also public grounds, areas or parks.
- B. Riot. A public disturbance involving (i) an act or acts of violence by one or more persons part of an assembly of three or more persons, which act or acts shall constitute a clear and present danger of, or shall result in, damage or injury to the property of another person or to the person of any other individual; or (ii) a threat or threats of the commission of an act or acts of violence by one or more persons part of an assemblage of three or more persons having, individually or collectively, the ability of immediate execution of such threat or threats, where the performance of the threatened act or acts of violence would constitute a clear and present danger of, or would result in, damage or injury to the property of any other person or to the person of any other individual.
- C. Inciting Riots. Shall mean, but is not limited to, urging or instigating other persons to riot, but shall not be deemed to mean the mere oral or written advocacy of ideas or expression of belief, not involving advocacy of any act or acts of violence or assertion of the rightness, or the right to commit, any such act or acts. This Section shall not be construed to suppress the right of lawful assembly, picketing, public speaking, or lawful means of expressing public opinion. (SDCL 9-29-2 and 22-18-35)

5-1-2 Open Containers. It shall be unlawful to consume any beer or alcoholic beverage or to possess any glass, can or other container containing beer or any alcoholic beverage on which the seal has been broken, in any public place, vacant building, automobile, street, alley, sidewalk or place of amusement or business establishment not authorized to sell beer or alcoholic beverages, unless approved by the City Council. (SDCL 35-1-5.3, SDCL 35-1-9.3)

- 5-1-3 Injury or Removal of Public or Private Property. No person shall willfully, maliciously, wantonly, negligently, or otherwise injure, deface, destroy, or remove real property or improvements thereto or movable or personal property belonging to the City or to any person in the City. (SDCL 22-34-1)
- 5-1-4 Tampering in General. No person in the City shall tamper with, injure, deface, destroy or remove any sign, notice, marker, fire hydrant, topographical survey marker or monument, or any other personal property erected or placed by the City. (SDCL 22-34-1)
- 5-1-5 Indecency. No person shall expose her breasts, his or her genitals, anus or pubic area in any public place or 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.
- 5-1-6 Excessive Noise. Including Radios. Television Sets. Musical Instruments. and Such Similar Devices Prohibited. Using, operating, or permitting the use of operation of any radio receiving set, television set, musical instrument, drum, or other machine or device for the production or reproduction of sound in such a manner as to be plainly audible at the property boundary of the source or plainly audible at fifty (50) feet from such device when operated within a vehicle anywhere within the limits of the City, is prohibited.
- 5-1-7 Carrying Concealed Weapons. No person shall carry concealed about his/her person within the City any firearm, slingshot, dirk knife or sheath, brass knuckles, or any other weapon, which when used is likely to produce a great bodily harm or death, unless permitted by the State and possessing said permit on his/her person. Any peace officer may wear or carry such weapons, as may be necessary and proper for the discharge of his/her official duties.
- 5-1-8 Penalty: Offenses Against Public Welfare. Any offense under this chapter shall be punishable by a fine set by the City Council and on file with the Finance Officer.

## **Chapter 5-2: Firearms and Fireworks**

- 5-2-1 Discharging Weapon. No person shall discharge any pistol, gun, revolver, or other firearm, or any bow and arrow, or any device capable of firing a projectile either by air or compressed gas (excluding construction tools) or any other means which would likely cause injury to any person, or discharge any dangerous weapon, within the City limits. Law Enforcement officers in the performance of their duties are exempted and City personnel and elected officials are exempted when acting in an official city capacity. The City Council may grant exceptions for special events or activities.

5-2-2 Fireworks Sale Prohibited. It shall be unlawful for any person, firm, or corporation to furnish, sell, offer for sale, keep or display for sale any pyrotechnics commonly known as fireworks within the City unless authorized by the City Council.

5-2-3 Fireworks Discharge Prohibited. It shall be unlawful for any person, including public displays, to discharge or shoot off any pyrotechnics commonly referred to as fireworks within the City unless authorized by the City Council.

### **Chapter 5-3: Animals**

#### **Definitions.**

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

A. At Large.

1. An animal when off or away from the premises of the owner, possessor, keeper, or agent or servant of such person and not under the control of the owner, possessor, keeper, agent, servant, or a member of his immediate family by a leash.
2. An animal when on the premises of the owner, possessor, keeper, agent, or servant if not attended by a competent person unless the animal is chained, restrained, enclosed, or confined in a manner preventing it from leaving the premises.

B. Leash. A cord, thong, or chain, not to exceed six (6) feet in length, by which an animal is controlled by the person accompanying it.

C. Owner. Any person harboring or keeping an animal and who is the head of the household of the residence or the owner or manager in charge of the establishment or premises at which an animal remains or returns to.

5-3-1 Types of Allowable Animals. No person shall keep, maintain, harbor, picket or have in custody or under their control or within any structure any animal for any length of time within the City, except as otherwise provided in this title. Neither shall any structures be constructed for the purpose of housing or maintaining any animals that are designated unlawful to be kept inside the municipal boundary limits of the City.

A. Allowable small animals/pets include those that can be bought from a commercial pet store in the State of South Dakota; except alligator, crocodile, cayman, raccoon, skunk, fox, bear, sea mammal, poisonous snakes or any snake not native to South Dakota, prairie dogs, poisonous insects, hybrids, member of the phylum species other than domestic cat (*felis domesticus*), member of the canine species other than domestic dog (*canis familiaris*) or any other animal that would require a standard of care and control greater than that required for customary household pets. Allowable

animals authorized by this ordinance can be kept within the City municipal boundaries.

- B. No large domesticated livestock or domesticated fowl of any kind including but not limited to, horses, cows, goats, swine (including pot belly pigs), sheep, ducks, geese, chicken, pigeons, turkeys, guineas, etc. are allowed to be kept within in the city limits except during special events or with special permission of the City. During special events no person shall stake any domestic animal in such a manner as to permit it to approach within 100 feet of any residential dwelling or building used for human habitation other than that of the owner of such animal.

5-3-2 Running at Large Prohibited. It shall be unlawful for any person to have any animal which is owned, kept, harbored, or allowed to be habitually in or upon the premises occupied by him or under his or their control to be at large and to go in or upon the private premises of others or upon any public property. The fine for an animal running at large is fifty (\$50.00) dollars. It shall be one hundred (\$100.00) dollars for each additional offense for the same animal.

Allowing an animal to run at large as defined in the provisions of this section, shall also constitute a Class 2 misdemeanor. Notwithstanding any other provision, any animal not having a visible tag and running at large may be deemed a stray and destroyed immediately.

5-3-3 Impoundment. The City Council shall be authorized to enter into a contract with some person, association or Humane Society to establish, operate and maintain an animal shelter for the City. Such contract shall provide for the enforcement of this chapter, for the impounding, destroying and disposal of animals, for a schedule of fees to be charged for services rendered, and for a monthly amount to be paid by the City. The City may, in lieu of the provisions of this section, maintain its own impoundment area or quarters, under the supervision of the City Council. All services incurred by the City will be reverted to the owner of said animal.

An owner reclaiming an impounded animal shall pay the actual cost of impoundment plus the following fee: First impoundment shall be \$25.00; second impoundment within a twelve (12) month period shall be \$50.00; any subsequent impoundment within a twelve (12) month period shall be \$100.00. Upon impounding, the owner of such animal may at any time within two (2) working days after the same shall have been impounded, reclaim the animal by paying the expense of keeping such animal in addition to the fee prescribed by this section. If any animal so impounded shall not be reclaimed within two (2) working days and reasonable efforts to locate the owner have failed, the City is authorized to destroy, sell, or otherwise dispose of such animal.

No person shall hinder, delay, or obstruct any law enforcement officer or other authorized official when engaged in capturing, securing or impounding any animal.



5-3-4 Compulsory Vaccination of Animals for Rabies. Every dog, cat or other animal susceptible to rabies, held as a domestic pet in the City, six months of age or older, shall be vaccinated against rabies by a licensed veterinarian. Vaccination against rabies shall be given at such intervals that guarantee immunity, and the minimum time period between vaccinations shall be determined by the available vaccine and based upon the recommendations and approval of the State Veterinarian.

Any owner acquiring a dog, cat or other animal by purchase, gift, birth or otherwise, shall have such animal vaccinated against rabies within one month following acquisition or when the animal reaches the age of six months.

Any animal impounded shall not be released to any person until such animal has been vaccinated against rabies; provided, however, no animal so impounded shall be vaccinated if the owner can present a certificate of a current vaccination.

All veterinarians or other qualified persons designated to vaccinate animals against rabies shall provide the owner at the time of vaccination with a certificate or metallic tag showing the date of the vaccination. Whenever metallic tags are so given for vaccination, such metallic tags shall be worn by all animals on a collar, harness, or chain when off the premises of the owner.

5-3-5 Responsibility of owner to Place Animal for Observation. When any person owning or harboring a dog, cat, or other animal has been notified that the animal has bitten or attacked any person, the owner shall within twenty-four (24) hours place the animal under the care and observation of the animal control officer or a licensed veterinarian for a period of not less than ten (10) days.

At the end of ten (10) days observation period, the animal shall be examined by a licensed veterinarian and if cleared by the veterinarian, may be reclaimed by the owner upon paying the expenses incident thereto.

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

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

Any person who shall suspect that any animal in the City is infected with rabies, shall report the animal to the animal control officer, the City, or other health authority, describing the animal and giving the name and address of the owner if known.

Whenever the animal control officer, a law enforcement officer or other authorized official shall have determined that there is danger of the existence or spread of rabies in the City, such facts shall be made known to the City Council in writing. The City Council, upon receipt of said facts, may by proclamation, in the interest of public safety and general welfare of the citizenry, order all animals muzzled when off the premises of the owner. Forty-eight (48) hours after the proclamation is issued, all animals found off the premises of the owner un-muzzled shall be seized and impounded or may be immediately destroyed if all reasonable efforts to seize said animal fail. All animals seized and impounded shall be held for observation as hereinbefore provided for, not less than ten (10) days, and if cleared by a licensed veterinarian, may be claimed by the owner upon paying the expenses incidental thereto. Any animal not claimed may be disposed of as hereinbefore provided.

5-3-6

Vicious Animals.

- A. An animal may be declared to be vicious by the animal control officer, a law enforcement officer or other authorized official, under the following guidelines:
  - 1. An animal which, in a vicious or terrorizing manner approaches in an apparent attitude of attack, or bites, inflicts injury, assaults or otherwise attacks a person or other animal 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 an apparent attitude of attack, or bites, or inflicts injury, or otherwise attacks a mailman, meter reader, serviceman, journeyman, delivery man, an employed person of the City, law enforcement official, or any person or animal who is on private property by reason of permission of the owner or occupant of such property or who is on private property by reason 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 is committing a willful trespass or other 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.
- B. Any mammal, reptile or fowl which is not naturally found in a domestic setting, and because of its size or other characteristic would constitute a danger to human life or property is automatically deemed vicious.
- C. When an animal is declared to be vicious, the City shall notify the owner of such declaration in writing. Said notice shall be served either in person or by mailing such notice by certified mail. If the owner disagrees with the finding of viciousness, he or she may request, in writing a hearing before the Vicious/Dangerous Animal Review Board within 5 business days after receiving the City's notification. The Vicious/Dangerous Animal Review Board shall hold a hearing not less than 3 or more than 10 business days after receiving the owner's written request of such hearing.

- D. Vicious/Dangerous Animal Review Board - the Vicious/Dangerous Animal Review Board as established by the City Council shall have the authority to review viciousness findings and determinations made by the animal control officer, a law enforcement officer or other authorized official. The Board as appointed by the Mayor shall consist of a city official as head of the board, a licensed veterinarian and a citizen of the City. The Vicious Animal Review Board shall make an independent determination of the animal's dangerousness. The decision may be issued at the hearing, but in any case, shall be issued within 3 business days after the hearing. Such decision shall be in writing and delivered either in person or by certified mail. All costs incurred by the City involving the Vicious/Dangerous Animal Review Board shall be passed onto the owner of said vicious/dangerous animal.
- E. The owner of an animal that has been deemed vicious by the Vicious/Dangerous Animal Review Board shall comply with the following:
1. Register the animal as vicious with the City and present proof of rabies vaccination within five (5) days of receiving the notice and presenting proof of rabies vaccination on or before March 1<sup>st</sup> of each and every year thereafter.
  2. Whenever 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 over sixteen (16) years of age.
  3. When the animal will be outdoors and unattended, the animal must be locked in an escape-proof kennel approved by the City. Minimum standards shall include the following:
    - a. Fencing materials shall not have openings with a diameter of more than two (2) inches.
    - b. Any gates within such pen or structure shall be lockable and of such design as to prevent the entry of children or the escape of the animal.
    - c. The required pen or structure shall have secure sides and a secure top. If the pen or structure has no permanent bottom secured to the sides, the sides shall be imbedded into the ground or concrete.
    - d. The pen or structure may be required to have double exterior walls to prevent the insertion of fingers, hands or other objects.
  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 of the animal shall notify the animal control officer, county law enforcement officer, or Finance Officer of any changes in the following:
    - a. Ownership of the animal including name, address and telephone number of a new owner.
    - b. Address changes of the owner or any change in where the animal is housed.

- c. Any change in the health status of the animal.
  - d. Death of the animal.
- F. The vicious animal shall be impounded by animal control at the owner's expense until all provisions of Section D are complied with. If the conditions in Section D are not complied with within ten (10) days after receiving notice, the animal shall be euthanized in a humane manner and proof of euthanasia filed with the City.
- G. If a vicious animal has been running at large, or bites a person or bites another animal, the animal control officer, a law enforcement officer or other authorized official shall seize the animal by using such means as are necessary and summon the owner to appear in court to show cause why this animal should not be destroyed. If the animal cannot be safely captured, it may be destroyed.

This section shall not be construed to apply to zoological parks, performing animal exhibitions, or circuses.

- 5-3-7 Cruelty to Animals. No person shall maltreat or abuse or neglect any animal or fowl. Any animal control officer, law enforcement officer or authorized official finding an animal or fowl mistreated as described in this section shall have the power to lawfully enter the premises where the animal is kept and demand to examine such animal and to take possession of such animal, when in his opinion, the animal requires humane treatment.
- 5-3-8 Poisoning Animals. It shall be unlawful for any person to willfully 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 willfully or maliciously place any poison or poisoned food where such is accessible to any such animal. (SDCL 9-29-11)
- 5-3-9 Stray, Abandoned, or Unkept Animals. No person shall harbor or keep any stray animals or abandon any animal within the City. Animals known to be strays shall be immediately reported to the animal control officer, a law enforcement officer or authorized official. (SDCL 9-29-12)
- 5-3-10 Number of Pets Limited. It shall be unlawful for any person to have or to keep more than five domestic pets over the age of six months, except birds and fish, on any lot or premises in the City, unless such person residing on or in the lot or premises has a valid kennel license issued by the City.

#### **Chapter 5-4: Private Pools**

- 5-4-1 Pools. All property owners within the City who own a private swimming pool with the capacity of 6,000 gallons or more must ensure their yard or property in which the pool is set is enclosed and shall not allow entrance to the general public.

- 5-4-2 Fence Required. A solid fence, non-see through, at least four (4') feet in height must be used on the sides of the yard that are visible to the general public from the street. A solid fence or chain link fence, at least four (4') feet in height shall be used on the portion of the property that is not plainly visible by the general public from the street.
- 5-4-3 Fence Lock. All entrances on the fence must have a lock or locking system to prevent the general public from entering the property.
- 5-4-4 Penalty: Pools. Any violation of any of the provisions of this chapter shall be punishable by a fine set by the City Council and on file with the Finance Officer

### **Chapter 5-5: Remote Control Vehicles**

- 5-6-1 Drones. Remote control drones shall abide by all state and federal regulations and shall operate at a minimum safe distance of at least 50 feet from any people other than the pilot.
- 5-6-2 Planes. Remote control planes are prohibited unless they meet the Park Flyer Class, weigh two pounds or less, and are incapable of reaching speeds greater than 50 m.p.h. Remote control planes used in a park must be electric or rubber power or of any similar quiet means of propulsion. Models shall be remotely controlled or flown with a control line, shall remain within the pilot's line of sight at all times, and shall always be flown safely by the operator. Model airplanes must operate a minimum safe distance of at least 50 feet from any spectators other than the pilot.

## **TITLE 6: STREETS, SIDEWALKS AND PUBLIC PLACES**

- Chapter 6-1 Names of Streets and Avenues
- Chapter 6-2 Streets, Sidewalks, Curb and Gutter
- Chapter 6-3 Use of Streets and Public Places
- Chapter 6-4 Signs, Posts, and Awnings
- Chapter 6-5 Snow Removal
- Chapter 6-6 Municipal Trees, Public Places
- Chapter 6-7 Moving/Demolishing Buildings/Structures
- Chapter 6-8 Excavations in Public Places

### **Chapter 6-1: Names of Streets and Avenues**

- 6-1-1        Names of Streets and Avenues. The names of all streets and avenues in the City shall be fixed and adopted in accordance with the official map of the City on file in the office of the Finance Officer. Other streets shall be named in accordance with guidelines included in the City subdivision regulations. Any such act of naming, establishing, or vacating any street, alley or other public way in the City shall be so designated on such map. (SDCL 9-45-2)
  
- 6-1-2        Numbering Plan. A numbering plan for residences and businesses shall be maintained by the City Council. A listing of the assigned numbers and a map showing the location of addresses shall be maintained and filed in the Finance Office. The Finance Officer shall be responsible for assigning new numbers and the location on the map. (SDCL 9-45-2)

### **Chapter 6-2: Streets, Sidewalks, Curb and Gutter**

- 6-2-1        Building and Repairs. It shall be the duty of the owner of any lot or lots within the City, when requested to do so in writing by the City Council, to build and maintain in good repair, a sidewalk in front of his/her premises.
  
- 6-2-2        Materials. All public sidewalks and curbs hereafter constructed in the City shall be of cement, unless permission is obtained from the City Council for the use of other materials. Such permission, if granted, shall be given in the form of a resolution.
  
- 6-2-3        City May Construct Sidewalks. In addition to the penalty provided for any violation of any of the provisions of this chapter, the City Council may, if the lot owner fails or refuses to build any sidewalks when requested under the provisions of this chapter, cause such sidewalks to be constructed and the costs of the same to be levied against the abutting real estate and collected in the manner provided by law for collecting special assessments or as prescribed by in SDCL Ch. 9-46.
  
- 6-2-4        Width of Sidewalks. In residential districts, the lot line begins 13' from the curbside.

The distance from the gutter to the sidewalk shall be 7'. The width of the concrete sidewalk shall be 42". The width of sidewalks in the business district shall be 8' which starts at the curb side. The cement depth of the sidewalk shall be 3.5" except where the sidewalk acts as a driveway in which case it shall be 5.5".

- 6-2-5 Cleaning Sidewalks. It shall be the duty of the occupant or the owner of any lot or parcel of land in the City, abutting on any alley or sidewalk, to keep such sidewalk or alley or to the center thereof free from all filth, unwholesome substance or matter, manure, straw, brush, snow, or rubbish of any sort.
- 6-2-6 Supervision of Sidewalk and Curb Construction. The building and construction of all sidewalks and curbing within the limits of the streets and alleys of the City shall be done under the direct approval of the City and all sidewalks and curbs shall be constructed on the grades as determined by the City.
- 6-2-7 Specifications. The construction of all sidewalks and curbing, whether to be done by direct contract with the City, or by contract with abutting property owners, shall be done strictly in accordance with the specifications for sidewalks and curbing adopted by the City Council and on file in the office of the Finance Officer and any such work not done in accordance with these requirements may be condemned by the City Council.
- 6-2-8 Permit Required. Before any sidewalk or curb is constructed within the limits of the streets and alleys in the City by any contract or individual for the owner of abutting property, said contractor or person must first secure a permit from the Finance Officer.
- 6-2-9 Design of Sidewalks. No sidewalk shall be built less than forty two (42) inches wide, pitched more or less than one inch to the street, and beginning more or less than five feet from the lot line.
- 6-2-10 Property Owner Responsible for Sidewalk Repair. It shall be the duty of the person in possession of any lot, parcel or plot of ground abutting upon any sidewalk to keep such sidewalk and curb in good repair as provided by SDCL 9-46-2.
- 6-2-11 Openings in Sidewalks. No permanent opening shall be made in any sidewalk in the City unless the same is covered with suitable iron covers, iron grating, or glass set in iron or cement; set level with the surface of the sidewalk; and so constructed as not to endanger any pedestrian passing over same.

### **Chapter 6-3: Use of Streets and Public Places**

- 6-3-1 Materials in Streets, Permits. The Mayor is authorized to grant permission in writing to any person to deposit and keep lumber, stone, brick, or other materials for building in any public street, road, or alley adjacent to the building to be constructed or

repaired for a space of time not exceeding three (3) consecutive months, but such permission shall not allow obstruction of more than one-third (1/3) of any driveway, sidewalk, street, road, or alley. At the expiration of such permit, the Mayor may, for good cause, renew the same for a like or shorter period of time.

Any person depositing and keeping any building materials on such sidewalk, street, road, or alley shall keep one (1) or more lights, lanterns, flares, or flashing lights so placed that such material may be easily seen by persons passing along such sidewalk, street, road, or alley and shall keep such material adequately protected and guarded so as to prevent personal injury there from.

6-3-2 Cleaning Streets or the Sidewalk of Rubbish. Every person to whom permission is granted to place and keep building materials in the sidewalk, street, road, or alley shall cause all such rubbish resulting there from to be removed from such sidewalk, street, road or alley during the permit period and any extension(s) thereof.

6-3-3 Crowds on Streets. It shall be unlawful for persons to gather in crowds or groups or for any person to stand on any public street or sidewalk in the City in such a manner so as to obstruct the free use and passage thereon, or to annoy other persons passing along the same. Law enforcement officials are hereby authorized to disperse any such crowd or group, or to cause the removal of any person violating the provisions of this ordinance.

6-3-4 Duty of Police in Dispersing Crowds. Law enforcement or other proper officials of the City are hereby authorized and directed to disperse any crowd or group of persons gathered on any street, road, alley, sidewalk, or other public ground or to remove any person standing on the same when such person or persons obstruct free passage thereon; and such officer may summarily arrest such person or persons. Proper complaint shall be entered against the person arrested within twenty-four (24) hours after arrest.

6-3-5 Building in Street. No person shall erect or maintain any building in such position that the same shall stand in whole or in part upon any public street, road, alley, or sidewalk in this City, or be so constructed that any part of the building shall project into or over such street, road, alley, or sidewalk; provided that jutting windows, brick, cornices, and other projection from the buildings above the first story may extend over the adjoining street, road, alley, or sidewalk, not exceeding eighteen (18) inches; and no person shall construct any step area or other appurtenance to any building so extending more than thirty (30) inches, nor shall any person erect in any public street, road, alley, or sidewalk any flight of stairs leading to the second or any higher story of any building.

6-3-6 Obstruction on Streets. No person shall place, leave, or keep on any public street, road, alley, sidewalk, or other public ground in the City any automobile, cart, truck, sleigh, snowmobile, or other vehicle, except when the same shall be in actual use; nor shall any person place, leave or keep on any public street, road, alley, sidewalk,



or other public ground in this City, any other article, substance, or material which may obstruct the free use of said street, road, alley, sidewalk or public ground except as hereinafter provided.

- 6-3-7 Eaves Pipes. No person shall place or maintain any pipes leading from the eaves of any building in such a position that the water discharged thereby will flow upon or over any public sidewalk.
- 6-3-8 Goods on Sidewalks. Any person may place above three (3') feet of the sidewalk in front of his/her premises, for a period not exceeding ten (10) hours, goods or merchandise which he or she may be receiving or delivering or may display on or over the sidewalk in front of and within two (2') feet of the buildings used by him or her as a place of business goods or merchandise for sale or exhibition. Under no circumstances shall any of the above articles be left upon the sidewalk in the nighttime or in such a way as to obstruct the sidewalk.
- 6-3-9 Hindering Street Improvement. No person shall hinder or obstruct any construction company hired by the City or any employee of the City in lawfully making any improvements or repairs on any public street, road, alley, or public grounds.
- 6-3-10 Injuring Sidewalks, Streets, Etc. No person, without proper authority, shall tear up, break, or injure any pavement, crosswalk, sidewalk, or other improvement in any street, road, alley, or public grounds in said City.
- 6-3-11 Livestock in Streets. No person shall allow any horse, mule, cow, hog, or livestock under his/her care or control to be loose on the streets or alleys of the City except when being driven through such streets and in the charge of one (1) or more competent drivers.
- 6-3-12 Duty of Police in Abating Nuisances. Law Enforcement is authorized and required to abate and remove any obstruction upon any street, road, alley, sidewalk, or other public ground. This they may do forthwith or on such notice as they may deem proper, unless the Mayor or City Council otherwise direct.

#### **Chapter 6-4: Signs, Posts, and Awnings**

- 6-4-1 Signs. No person shall place, hang, or maintain on or over any sidewalk any sign which shall extend more than six (6) feet from the building to which it is attached or belongs, or be less than seven (7) feet above the sidewalk unless he/she obtains special permission from the City Council.
- 6-4-2 Posts and Awnings in the Street. No person shall set any post or other obstruction in the street, road, or alley, in the City, for the purpose of fastening thereto any awning or shed in or over any street, alley or sidewalk, in this City, nor drop or allow any awning to hang lower than seven (7) feet above the surface of the sidewalk, unless

the owner of the property obtains special permission to do so from the City Council. The property owner shall be responsible for any bodily injuries or property damage arising out of the construction or placement of such obstructions.

- 6-4-3 Telephone and Electric Poles. It shall be unlawful for any person, company, or corporation to erect or maintain any poles for the purpose of stringing any telephone or electric wires in or on the streets or alleys in the City without written permission from the City Council.
- 6-4-4 Flags. Flags may be placed in the outer edge of the sidewalk during the daytime on State or National holidays or when authorized by a proclamation of the Mayor, provided, they are attached to staffs securely fastened to the sidewalk and standing in an upright position.
- 6-4-5 Utility Poles. All telegraph and telephone poles and other utility poles shall be set inside and next to the property line.
- 6-4-6 Sign Permits. Any person desiring to erect or maintain a sign extending more than three (3') feet over a sidewalk must make written application for a permit to the City Council.

### **Chapter 6-5: Snow Removal**

- 6-5-1 Duty to Remove. It shall be the duty of the owner, tenant, or person in possession of any property abutting on any sidewalk to keep such sidewalk free from snow and to cause any accumulated snow to be removed within twenty-four (24) hours after the termination of any snowfall, or snow accumulation. When it is impossible to take snow and ice from such walk by reason of its being frozen to the sidewalk, the owner or occupant or person in charge of such lot shall sprinkle or spread some suitable material upon the same to prevent the walk from becoming slippery and dangerous to travel.
- 6-5-2 Disposal of Snow. It shall be the duty of the property owner, tenant, or person in possession of any public or private driveway, parking lot or parking area to dispose of accumulated snow upon such property in such manner that any snow when removed shall not be deposited upon any sidewalk, within or upon any public street or alley, after such public street or alley has been cleared of snow by grading of such snow away from the curb or picking up and carrying away of such snow by the City, or in a manner that will obstruct or interfere with the passage or vision of vehicle or pedestrian traffic.
- 6-5-3 Vehicles Hindering Snow Removal. Any vehicle hindering snow removal shall be subject to fine and towing charges as provided in 7-5-2.
- 6-5-4 Removal Costs Assessed. In the event any owner, tenant, or person in possession

of any property shall neglect or fail to or refuse to remove such snow or ice within the time provided, the City may issue a citation for such violation and may authorize such removal with the costs to be assessed against the abutting property owner. (SDCL 9-30-5)

## **Chapter 6-6: Municipal Trees, Public Places**

6-6-1 Authority and Jurisdiction. The City Council shall have the authority to regulate the planting, maintenance, and removal of trees on streets and other publicly owned property to insure the public safety and to preserve the aesthetics of such public sites. The City Council shall also have the authority to determine the type and kind of trees to be planted upon municipal streets or in parks and may assist in the dissemination of news and information regarding the selection, planting, and maintenance of trees within the corporate limits or within the area over which the City has jurisdiction, whether the same be on private or public property, and to make recommendations from time to time as to desirable ordinances concerning the tree program and activities for the City. (SDCL 9-38-2)

Certain species of trees shall not be planted in the street right-of-way for any of the following reasons: high susceptibility to disease, production of large or messy fruit, and growth habit.

6-6-2 Duties of Property Owners. It shall be the duty of any person owning or occupying real property bordering on any street to prune or remove such trees in such manner so that they do not obstruct or shade street lights, or obstruct the passage of pedestrians on sidewalks, obstruct vision of traffic signs, or obstruct the view of any street or alley intersection. It shall also be the duty of such person to prune or remove shrubs or trees located in the street right-of-way adjacent to their property. Removal shall also be required when any such shrubs or trees are diseased, dead, or a prohibited species, or pose a safety hazard or nuisance. The person owning or occupying such real property described above shall be responsible for pruning shrubs and trees, whether on the property owner's land or in the right-of-way, when the trees or shrubs violate clearance requirements. The minimum clearance of any overhanging portion thereof shall be ten (10') feet whenever practicable, and twelve (12') feet over all streets except truck thoroughfares where the clearances shall be from fourteen (14') to sixteen (16') feet, unless otherwise determined by the City Council.

6-6-3 Removal of Hazards. Where any trees branches or hedges protrude or overhang on any thoroughfare within the City so as to be in violation of this Chapter, good maintenance practices, or so as to affect motor vehicle traffic, notification shall be given by the City Council to the property owner to remove such obstructions or undesirable branches or hedges within seventy-two (72) hours after receipt of notice. If not completed within that time, the City Council shall take immediate action to have such items removed with all costs assessed to the property owner.

- 6-6-4 Permission to Plant and Maintain. No person shall plant, spray, fertilize, preserve, prune, remove, cut above ground, or otherwise disturb any tree on any street or municipal owned property without first receiving permission from the City Council.
- 6-6-5 Planting Trees. All trees hereafter planted along the streets in Roscoe shall be planted ten (10') feet from the lot line of the abutting lot, not within five (5') feet of the street, and shall be at least ten (10') feet from any corner of a street intersection. Trees may not be planted under any power lines, wires, or cables. Any trees or shrubs heretofore planted within the limits of any street which shall be deemed a menace to safety may be removed by order of the Mayor.
- 6-6-6 Abuse of Trees. Unless otherwise specifically authorized by the City Council, no person shall intentionally damage, cut, carve, transplant, or remove any tree, attach any rope, wire, nails, advertising posters, or other contrivance to any tree, allow any gaseous liquid or solid substance which is harmful to such tree to come in contact with such tree or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any tree.
- 6-6-7 Permission to Deposit Materials. No person shall deposit, place, store, or maintain upon any public place of the municipality, any stone, brick, sand, concrete, or other materials which may impede the free passage of water, air, or fertilizer to the roots of any tree growing therein, except by permission of the City Council.
- 6-6-8 Permission to Excavate. All trees on any street or other publicly owned property near any excavation or construction of any building, structure, or street work shall be guarded with a good substantial fence, frame, or box, and all building material, dirt, or other debris shall be kept outside such barrier. No person shall excavate any ditches, tunnels, trenches, or lay any drive within a radius of ten (10) feet from any public tree without first obtaining permission from the City Council.

### **Chapter 6-7: Moving/Demolishing Buildings/Structures**

- 6-7-1 Moving Building. No person shall move or demolish any building/structure or part of a building/structure into, along or across any public street, alley or ground in the City without having first notified the City and having received a permit to ensure that proper routes and policies are followed. Any repair costs to streets, utilities, and/or any related cleanup costs that are incurred by the City due to the moving or demolishing of a building or structure shall be billed to the owners of the building or structure that was moved or demolished.
- 6-7-2 Application. Written application for a moving permit shall be made to the Finance Officer and shall include, but not be limited to, the following:
- 1) The proposed location to which such building or part thereof may be moved;

- 2) The present location of the building to be moved;
- 3) At least two photographs of the building concerned, taken from different angles;
- 4) Dimensions of the building, width, length, height, and type of construction, frame, masonry, steel, etc;
- 5) The moving route;
- 6) Signature of the applicant, date of application, and name of the bonded mover; and
- 7) A statement of the willingness of the applicant to furnish a performance bond executed to the City prior to granting of the moving permit and necessary building permits. The bond requirement may be waived in lieu of a copy of a bona fide contract to cause the moved building to conform to City and County building, plumbing, and electrical codes and in compatibility with other buildings in the proposed move-in area. Completion date of conformity to codes and area shall be no more than one hundred eighty (180) days from the date of issuance of the permits whether covered by bond or contract;
- 8) Pay a fee that is set by the City Council and that is on file with the Finance Officer.

However, if such building is to be moved to any location within the City, no permit shall be granted until after a hearing on such application, which hearing will be at a regular meeting of the governing body and after five (5) days notice of such hearing has been given by posting of not less than one sign containing notice of the hearing, in a conspicuous place on or near the property to which the application is made to move such building.

6-7-3

Bond for Movers. Before issuing such permit, the Finance Officer shall require the person, firm, or corporation who is to move the building to file in the office of the Finance Officer a written application for such permit which shall describe such building, state the location from which it is to be moved, the streets and alleys over and along which the same is to be moved, and the location to which it is proposed to move said building and shall also require a bond to be executed to the City with good and sufficient surety and conditioned for the payment of any damage that said City may be liable in consequence of the use of any street, alley or avenue for the removal of such building, and for any damage which may occur to any street, alley or avenue on account of the removal of such building, and the payment of any penalty that may be incurred by such person, firm or corporation, his/her, their, or its agents, for the violation of any of the provisions of this chapter.

Any person, firm, or corporation in the business of moving buildings may file their bond for one year covering all buildings moved by them, subject to the provisions of this chapter.

The dollar amount of the bond that is required by the City will be on file in the office of the Finance Officer.

6-7-4

Guarantee Fund. Whenever the Finance Officer shall decide from any other

information as he/she may obtain, that the sum set by the City Council is not sufficient as a guarantee fund for ample protection of the City against the probable damages and expenses that may be caused by the removal of such building, he/she is hereby authorized and it shall be his/her duty to require an additional deposit set by the City Council and on file with the Finance Officer.

6-7-5 Permit, Contents. On the receipt of the application and the guarantee fund as hereinbefore provided, the Finance Officer may investigate the representations of the applicant and if such investigation is satisfactory, he/she shall deposit said guarantee fund with the Finance Officer to be by him/her held subject to the order of the City Council, who shall thereupon issue the said applicant a permit in writing for the removal of such building along or across the streets, highways or alleys to be designated by the Finance Officer. Said removal must be finished prior to the end time stated in such permit.

6-7-6 Refunding Guarantee Fund. Before refunding said guarantee fund or any part thereof, it shall be the duty of the City Council to examine the report of the Finance Officer and pay out of said fund or set aside for such purposes the amount claimed or ascertained as the damages for injuries to the public or private individuals, including the expenses of protection to electric, telegraph and telephone wires, caused or occasioned by the removal of such building.

6-7-7 Removing Telephone Wires, etc. and Planking Streets. Any person, firm, or corporation to whom a permit for moving buildings is granted shall see that all telephone, electric, or other utility wires or poles are removed when necessary and replaced in good order, and shall be liable for the costs of the same and necessary trimming of any trees or branches en route shall be done or supervised by the City, who shall be notified by the mover of such need, and such person, firm, or corporation engaged in moving buildings shall plank all streets, alleys and avenues which are paved in such ways as to fully protect such paving or pavement from damage, and any damage to any sidewalk, pole or other City property, including the City roadways, caused by any person, firm, or corporation moving the building, shall be repaired by the City, or his/her, their sureties, shall be liable for the same.

6-7-8 Applicant Must Serve Notice to Owner of Wires, Etc. If the permit includes streets, alleys or highways on which are located, or across or along which are strung electric light or telegraph, telephone wires, or cable television, it shall be the duty of such applicant or representative to notify in writing the resident manager or managing agent or officer of such public services corporation or owner of said line or wires at least twenty-four (24) hours before the commencement of such work, of his/her intent to move such building under or across such line or wire and of the approximate time for such crossing of line or wire by such building.

6-7-9 Wrecking of Buildings. No person shall wreck or tear down any building or part of a building or permit the same to be wrecked or torn down within the limits of the City until the owner thereof has notified the City Council.

- 6-7-10      Application for Permit. Such owner shall make written application for such permit in which application he/she shall describe the building, or part of a building, which is to be wrecked or torn down. Such application shall have attached thereto documentation from the Finance Officer of the City showing that a cash bond or surety, set by the City Council and on file with the Finance Officer has been recorded with the Finance Officer, to be approved by the City Council conditioned that if such application be granted and a permit issued to applicant to wreck or tear down the building or part of a building described in the application that he/she will conform to all regulations and requirements relating thereto which are now, or which may be hereafter established by the City Council.
- 6-7-11      Fill Excavations. As part of such application, the owner shall provide that they will promptly fill all excavations and basement left open as a result of the wrecking or tearing down of such building or part of a building and leave the premises in a safe, sanitary, and sightly condition, that they will repair and make good to the satisfaction of the City Council any damage to any City property caused by wrecking or tearing down of such building, and that they will immediately indemnify and hold harmless the City against any and all liability for damages, costs, or expenses arising from or on the part of their servants, employees or contractors in connection with the wrecking or tearing down of such building, and that all taxes and assessments shall be paid in full.
- 6-7-12      Approval of Application. Application fees are set by the City Council and on file with the Finance Officer. Cash bonds shall be deposited and filed with the Finance Officer and shall be submitted by him/her to the City Council at the next meeting. If the same shall meet with their approval, the Finance Officer shall be directed to forthwith issue to the applicant a permit to wreck or tear down the building or part of a building described in the application. If the same does not meet with their approval, the City Council shall cause the reasons for their disapproval to be endorsed upon such application and bond shall be forthwith returned to the applicant.
- 6-7-13      Buildings Not to Remain on Streets. It is unlawful for any person, firm, or corporation to allow any building for which a removal permit shall be obtained, to remain upon, occupy, or stand upon any streets, avenues, alley, or sidewalk for more than twenty-four (24) consecutive hours. Warning lights shall be displayed at night on buildings being moved while standing upon the streets or alleys or avenues of the City.
- 6-7-14      Damaging Streets. Any mover moving any building or structure over or across any street, sidewalk, or curb shall, when so provided in their permit, cause such street to be protected by laying planks thereon.
- 6-7-15      City May Move Buildings. Whenever the person, firm, or corporation moving a building upon or along any street, avenue, or alley shall willfully or negligently

permit such building, while in transit, to remain upon the street, avenue, alley, or sidewalk, the City shall have the authority and is authorized to move said building to any point or place in the City where the same shall not obstruct traffic or inconvenience the public, and the City shall keep an account of the expenses of such removal, and said person, firm, or corporation and the sureties on the bond filed, as required by the provisions of this chapter, shall be liable to the City for such expenses and the same shall be collected in any court having jurisdiction.

- 6-7-16 Conforming to Codes. All moved buildings to be located within or relocated within the City shall be brought into compliance with the building, plumbing, and electrical codes in existence at the time the building or buildings are located or relocated, the foundation and/or basement on which the moved or relocated building will rest shall be complete and ready to accept the building prior to moving said building from the present location to the proposed location. A maximum of one hundred eighty (180) days from the date of issue of the moving permit, and other permits issued at the time of the moving permit, shall be allowed for complete compliance with this chapter.
- 6-7-17 Sewer Required to be Capped. After the moving or tearing down of any building or structure within the City the water/sewer system is required to be capped off or plugged to prevent underground water seepage. It shall be capped off using a four-inch (4") cap, or other device first approved by the City Council.
- 6-7-18 Violations and Penalties. Any person, firm, or corporation violating any of the provisions of this chapter is guilty of a separate offense for each and every day or portion thereof during which any violation of any provisions of this chapter is committed, continued, or permitted. Such person firm or corporation shall be subject to a fine in an amount set by the City Council and on file in the office of the Finance Officer for each such violation.

## **Chapter 6-8: Excavations in Public Places**

- 6-8-1 Permit Required. Any person, company, or corporation intending to make excavations in any street, alley, sidewalk, or public ground in the City for any purpose whatsoever shall file in the office of the Finance Officer a statement in writing of the place where such excavation is to be made and the estimated time of its completion; together with a written agreement executed by such person, company, or corporation, stating that such person, company, or corporation will pay to the City any and all damages which may be sustained by the City due to the failure of such person, company, or corporation to observe this ordinance. Upon the completion of these requirements, the Finance Officer shall issue a permit in writing for such excavation. No permit will be necessary in the case of emergency situations involving sewer backup or water line break, however, in such instance, the person, company or corporation making such excavations shall remain bound by the other provisions of this ordinance, and shall be liable to the City for any and all damages



which shall be sustained by the City due to failure of the person, company, or corporation to observe the other requirements of this chapter.

6-8-2 Application and Bond. Application for such permit shall be made to the Finance Officer, who shall secure the approval of the City Council before issuing any such permit. Such application shall be accompanied by a fee set by the City Council and on file with the Finance Officer, which will be considered compensation to the City for the granting of such permit and the necessary investigation prior thereto. In addition to the required fee, the applicant shall deposit with the Finance Officer an amount set by the City Council and on file with the Finance Officer to secure the replacement and refilling of any such excavation. In lieu of such deposit, a bond for that purpose in an amount set by the City Council and on file with the Finance Officer, may be approved by the City Council covering all excavations for the year for which such bond is given. Before any such permit is issued, the person requiring the same shall state in his/her application thereof where such excavation is to be made, the extent thereof, in front of what lot or lots, for what purpose said excavation is to be made, and whether or not such person has a bond on file with the Finance Officer for making such excavation. If such applicant has not filed a bond, before a permit shall be issued, such applicant shall furnish a bond or make the deposit as above provided with the Finance Officer. The bond shall be used as a guaranty for the proper refilling of and guarding of such trenches and excavations while in the course of excavating or refilling. The maintenance of the same shall remain in good condition for one year thereafter.

6-8-3 Deposit Forfeited. If at any time within one year after the issuance of the permit referred to in this chapter the City Council shall find that the work for which bond deposit was made does not stand a satisfactory test or has not been properly refilled, he shall notify the depositor in writing that the work must be put in satisfactory condition within three days, and if the depositor fails to comply with the terms of said notice, then the City Council shall have authority to cause such work to be put in proper and satisfactory condition and charge the expense thereof to the sum deposited. The Finance Officer shall, upon order from the City Council, return the balance unexpended at the expiration of one year from the date of such permit to the depositor.

In cases where a deposit is put up for all work done by any person as provided in this chapter, the City Council shall have power to cause the repairing of or refilling of any excavations made by such person if he fails to do so upon three days written notice, and such depositor shall immediately replenish such deposit to the original amount.

6-8-4 Supervision of Excavation. The City Council shall authorize an employee of the City to supervise all excavations made for any purpose in the streets, alleys or public grounds, and shall require that all excavations be backfilled in the manner specified.

6-8-5 Guarding Excavations. Any person, company, or corporation receiving a permit to

make excavation in any street, alley, sidewalk, or public ground shall, during the progress and continuance of the work, erect and maintain around the same both by day and night suitable guards, fences, flares, and signals so as to prevent injury to person, animals, or vehicles on account of such excavation. Such flares shall be kept lighted from sundown to sunrise.

- 6-8-6 Refilling Excavations. When excavation is completed, the person, company, or corporation making such excavation shall promptly and without delay refill the same in the manner herein provided. The dirt shall be carefully replaced and tamped in hard layers of not more than six (6") inches in depth. Where water supply is convenient, the layers of dirt should be well saturated with water so as to make the surface of the ground, when completely filled, level and as firm as before such excavation occurred.
- 6-8-7 Excavations Under Sidewalks. Any person, company, or corporation having or erecting any building abutting upon any street, alley, or sidewalk in the City of Roscoe, may excavate under any sidewalk to the curb for the purposes of constructing a cellar or basement in front of or adjoining said building; provided, however, that said excavation shall be surrounded on the outer sides and end with a substantial brick, stone, or cement wall, sufficient to maintain the said sidewalk. Permission to make said excavation must first be obtained from the City Council as provided for in Section 6-8-1 and also said excavation shall be securely guarded as provided for in Section 6-8-2.
- 6-8-8 Excavations Near Street. It shall be unlawful for any person, owner, or occupant of any lot or parcel of land within the City, to make or cause to be made, any excavation on said lot or parcel of land, unless the same be securely guarded so as to prevent the injury of any person or animals passing upon or along said streets, alleys, public grounds, or traveled path or roadway.
- 6-8-9 Permit Required: Excavations in Public Places. Where it is necessary to cut the street pavement in making any street excavation, there shall be deposited with the Finance Officer before permit is issued an amount set by the City Council and on file with the Finance Officer. The deposit is refundable if the area excavated is put back into the same or better condition than it was prior to the excavation.

## TITLE 7: TRAFFIC CODE

- Chapter 7-1 General Provisions
- Chapter 7-2 Operation of Vehicles
- Chapter 7-3 Vehicle Equipment
- Chapter 7-4 Speed Restrictions
- Chapter 7-5 Parking, Stopping
- Chapter 7-6 Trucks
- Chapter 7-7 Miscellaneous Provisions
- Chapter 7-8 Snowmobiles

### **Chapter 7-1: General Provisions**

#### **Definitions**

- A. Authorized Emergency Vehicle. Vehicles of any fire department, police vehicles, and such ambulances and emergency vehicles of municipal department or public service corporations as are designated or authorized by the City Council.
  - B. Law Enforcement Officer. Any police officer or other law enforcement personnel approved by the City Council to enforce the provisions of the ordinances of the City.
  - C. Motor Vehicle. Every Vehicle, as herein defined, which is self-propelled.
  - D. Operator. Any person who is in actual physical possession and control of a vehicle.
  - E. Parking. The standing of a vehicle, whether attended or unattended, upon a roadway or street, other than temporarily for the purpose of and while actually engaged in loading or unloading, or in obedience to traffic regulations, signs or signals.
  - F. Vehicle. Every device in, upon or by which any person or property is or may be transported or drawn upon a public highway.
- 7-1-1      Duty to Enforce. It shall be the duty of law enforcement officers to enforce these traffic regulations and all state vehicle laws applicable to street traffic in the City, to make arrests for traffic violations, to investigate accidents and to cooperate with other officials in the administration of these traffic laws. (SDCL 9-29-19)
- 7-1-2      Obedience to Enforcement. No person shall refuse or fail to comply with any lawful order, signal or direction of any law enforcement officer, or refuse to submit to any lawful inspection or fail to comply with the provisions or requirements of any warning ticket issued under this Title. (SDCL 9-29-19)
- 7-1-3      Directing Traffic. Law enforcement officers shall direct 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, Fire Department personnel may direct traffic as conditions may require.

- 7-1-4 Exemptions to Authorized Emergency Vehicles. The provisions of this Title 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.
- 7-1-5 Application to Workers and Equipment. The provisions of this Title shall not apply to persons, motor vehicles or 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.
- 7-1-6 Authority to Install Traffic Control Devices. The City Council shall place and maintain traffic control signs, signals, and devices when and as required under this Title to make effective the provisions of said Title, and may place and maintain such additional traffic control devices as may be necessary to regulate traffic. (SDCL 32-14-5)
- 7-1-7 Obedience to Traffic Control Devices. The operator of any vehicle shall obey the instructions of any official traffic control device applicable thereto placed or held in accordance with the provisions of this Title unless otherwise directed by a law enforcement officer subject to the exceptions granted by law to the driver of any authorized emergency vehicle.

## **Chapter 7-2: Operation of Vehicles**

- 7-2-1 Driver's License Required. It shall be unlawful for any person to drive or operate upon any of the streets or highways within the City any motor vehicle, including golf carts, without first having secured and having in their possession a valid license or permit to do so. (SDCL 32-12-22)
- 7-2-2 License Plates. No person shall operate or drive a motor vehicle, including golf carts, within the City without having conspicuously displayed thereon license plates as required by state law, securely fastened, and which shall be kept free from mud, dirt or other obstruction so that the entire license plate shall be clearly legible by other persons upon the highway.
- 7-2-3 Drive on Right Side of Street. The operator of a vehicle shall drive upon all streets on the right half of the street and shall drive a slow-moving vehicle as closely as possible to the right-hand edge or curb of a street unless it is impractical to do so,

and except when overtaking and passing another vehicle, subject to the limitations applicable to over taking the passing set forth by law. (SDCL 32-26-1)

7-2-4 Vehicles Shall Not Be Driven on Sidewalks. The operator of any vehicle except a bicycle shall not operate it within any sidewalk area except at a permanent or temporary driveway. (SDCL 32-26-1)

7-2-5 Operation of Vehicles on Approach of Authorized Emergency Vehicle. The operator of any vehicle shall, upon the approach of any authorized emergency vehicle or vehicles giving audible signal by lights or siren, immediately drive the same to a position as near as possible and parallel to the right-hand edge or curb of the street, clear of any intersection, and shall stop and remain in such position until the authorized emergency vehicle or vehicles shall have passed, unless otherwise directed by a law enforcement officer. (SDCL 32-31-6)

It shall be unlawful for the driver of any vehicle, other than one on official business, to follow closer than 500 feet any fire apparatus, or to park any vehicle within the block where such fire apparatus has stopped to answer a fire alarm. It shall be further unlawful for the driver of any vehicle to drive over any unprotected hose of the Fire Department without the consent of authorized personnel. (SDCL 32-31-7 & 32-31-8)

7-2-6 Duty of Motorist to Slow or Stop in Obedience of School Bus Amber or Red Signal. The operator of any motor vehicle driven within the City, shall, upon meeting or overtaking a school bus, on which amber warning lights are flashing, reduce speed of the vehicle to not more than twenty (20) miles per hour and proceed past the school bus with caution. An operator who meets or overtakes a school bus on which the red signal lights are flashing, shall bring the vehicle to a complete stop not closer than fifteen (15) feet from the school bus and shall remain stopped until the flashing red signal lights are extinguished. (SDCL 32-32-6)

7-2-7 Backing Around Corners or into Intersection Prohibited. It shall be unlawful for the operator of any vehicle to back such vehicle around a corner at an intersection or into an intersection of public streets. (SDCL 32-30-20)

7-2-8 Reckless Driving. Any person who drives any vehicle upon a street, avenue, or alley carelessly and heedlessly in disregard of the rights or safety of others, or without due caution, and at a speed or in a manner so as to endanger or be likely to endanger any person or property, shall be guilty of reckless driving. (SDCL 32-24-1)

7-2-9 Careless Driving. Any person who drives any vehicle carelessly and without due caution, at a speed or in a manner so as to endanger any person or property, not amounting to reckless driving as defined in the previous Section, shall be guilty of careless driving. (SDCL 32-24-8)

- 7-2-10 Exhibition Driving. Any person who drives any vehicle within the limits of the City in such a manner that creates or causes unnecessary engine noise, 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 away, shall be guilty of exhibition driving. (SDCL 32-24-9)
- 7-2-11 Racing Prohibited. It shall be unlawful for the operator or driver of any vehicle to race with any other vehicle on said streets or thoroughfares of the City, or to engage in any contest of speed with any other vehicle, or the driver thereof, on said streets and thoroughfares.
- 7-2-12 Right-of-Way at Intersection. The right-of-way rule as between vehicles at intersections is hereby declared as follows: (SDCL 32-26-13)
- A. The operator of a vehicle approaching an intersection shall yield the right-of-way to a vehicle which has entered the intersection.
  - B. When two (2) vehicles approach an intersection at approximately the same time, operator of the vehicle at the left shall yield the right-of-way to the vehicle on the right.
  - C. The operator of any vehicle traveling at an unlawful speed shall forfeit any right-of-way which he may otherwise have hereunder.
- 7-2-13 Right-of-Way, Left Turn. The driver of a vehicle within an intersection intending to turn to the left shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard, but said driver, having so yielded and having given a signal when and as required, may make such left turn. The drivers of all other vehicles approaching the intersection from said opposite direction shall yield the right-of-way to the vehicle making the left turn.
- 7-2-14 Turning Around in Midblock. The operator of a vehicle shall not turn such vehicle so as to proceed the opposite direction except at an intersection or turn such vehicle so as to park on the opposite side of the street. (SDCL 32-29-2.1)
- 7-2-15 Action Required at Stop Sign. Except when directed to proceed by a law enforcement officer or traffic control signal, every operator of a vehicle approaching a stop intersection indicated by a stop sign shall come to a full stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or if none, then at the point nearest the intersection roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection.

After having stopped, the operator shall yield the right-of-way to any vehicle which has entered or is approaching the intersection from another highway and shall not

proceed into the intersection until certain that such intersecting roadway is free from oncoming traffic which may affect safe passage. (SDCL 32-29-3)

7-2-16 Action Required at Yield Sign. The operator of a vehicle approaching an authorized sign bearing the word "Yield" or "Yield Right-of-Way" shall in obedience to such sign slow down to a speed reasonable for the existing conditions, or shall stop if necessary and shall yield the right-of-way to any pedestrian legally crossing the roadway on which such operator is driving, and to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard. Said operator having so yielded may proceed and the operators of all other vehicles approaching the intersection shall yield to the vehicle so proceeding. (SDCL 32-29-3)

7-2-17 Stop Required Before Operator Entering From Alley, Building or Private Road. The operator of a vehicle emerging from an alley, building, private road or driveway within a business or residential district shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across such alley, building entrance, road or driveway, or in the event there is no sidewalk area, shall stop at the point nearest the street to be entered where said operator has a view of approaching traffic thereon. (SDCL 32-29-2.2)

7-2-18 Following too Closely. The operator of a vehicle shall not follow another vehicle more closely than is reasonable and prudent having due regard to the speed of such vehicles, the traffic upon such streets or highways, and the condition of the streets or highways.

7-2-19 Signals. Any stop or turn shall be signaled by either means of hand and arm or by a signal lamp or standard approved mechanical signaling device.

- A. At any intersection where there is displayed an official traffic sign displaying the words "No U-Turn" it shall be unlawful for the operator of any vehicle to turn such vehicle at the intersection in a complete circle or so as to proceed in the opposite direction;
- B. 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. No person shall so turn any vehicle without giving an appropriate signal in the manner herein provided in the event any other traffic may be affected by such movements;
- C. A signal of intention to turn right or left when required shall be given continuously during no less than the last 100 feet traveled by the vehicle before turning;
- D. 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.

7-1-20 Slow Driving. No person shall drive any vehicle at any unnecessarily slow rate of speed so as to hinder or impede traffic.

7-2-21 Interfering with Snow Removal Equipment. No person shall operate a vehicle within such a distance or follow any municipal, county or state snow plow so as to interfere with the snow removal operations, or in such a manner as to cause the snow plow operator to abruptly swerve, steer, stop or divert the snow plow from such snow removal operations.

7-2-22 Pedestrian's Right-of-Way. (SDCL 32-27-1)

- A. The operator of any vehicle shall yield the right-of-way to a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk or at the end of a block, except at intersections where the movement of traffic is being regulated by law enforcement officers or traffic control signals.
- B. Whenever any vehicle has stopped at a marked crosswalk or at any intersection to permit a pedestrian to cross a roadway, it shall be unlawful for the operator of any other vehicle approaching from the rear to overtake and pass such stopped vehicle.

7-2-23 Pedestrian's Responsibility. No Pedestrian may suddenly leave a curb or other place of safety and walk or run in to the path of a vehicle which is so close as to constitute an immediate hazard.

7-2-24 Helmets For Minors Required. It shall be unlawful for anyone under the age of eighteen (18) to operate or ride upon a motorcycle, except a moped as defined in SDCL 32-20-1, on the public streets or alleys of the City, unless such person wears a protective helmet of any type approved by the Department of Transportation Motor Vehicle Safety Standard. (SDCL 32-20-4)

### **Chapter 7-3: Vehicle Equipment**

7-3-1 Warning Tickets. Any authorized law enforcement officer, upon reasonable belief that a vehicle is being operated in violation of any provision of the Title 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, and is hereby authorized to issue a warning ticket to any driver whose vehicle is in violation.

Such warning ticket shall clearly designate the provisions which are being violated and shall provide for notification to law enforcement officials when such violation



is corrected, by the time specified on the warning ticket.

- 7-3-2 Brakes, Horns, and Lights. Every vehicle operated or driven on any public streets or alleys shall be provided with adequate brakes that are sufficient to control such motor vehicle at all times when in use, suitable horn, and shall during the period of from one-half (1/2) hour after sunset to one-half (1/2) hour before sunrise display at least two (2) lighted lamps on the front and at least two (2) lighted red lamp on the rear of such vehicle. Motorcycles and bicycles are required to display one (1) lighted lamp on the front of such vehicle.
- 7-3-3 Emergency Vehicle Warning Device. Every law enforcement, Fire Department and ambulance vehicle used for emergency calls shall be equipped with lights and siren. It shall be unlawful for any other vehicle to be so equipped.
- 7-3-4 Red and Blue Lights. Except as to law enforcement or Fire Department vehicles, or tow trucks or wreckers operating under such circumstances as may be provided by law, it shall be unlawful for any person to operate a vehicle in the City with any red or blue light thereon visible from directly in front or to the sides thereof.
- 7-3-5 Mufflers. No person shall operate 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 or annoying smoke. It shall be unlawful for any person to use a muffler cut-out on any motor vehicle within the City (SDCL 32-15-17)
- 7-3-6 Projecting Loads. No person shall operate a 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 a warning sign or signal plainly discernible to other drivers which clearly indicates the projecting parts of such load.
- 7-3-7 Weight and Size of Vehicle and Loads. No person shall operate any motor vehicle upon any street the gross weight of which does not comply with state law.
- 7-3-8 Windshields Must be Unobstructed. It shall be unlawful for any person to drive any motor vehicle upon any street with its windshield or any other window obstructed by any sign, poster, or other not-transparent material other than a certificate or other paper required to be so displayed by law or other temporary driving instruction placed thereon by the manufacturer.
- 7-3-9 Protection of Load. No motor vehicle shall be driven or moved on any street 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. No person shall operate on

any street 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 becoming a hazard to other users of the highway (SDCL 32-15-18)

#### **Chapter 7-4: Speed Restrictions**

##### 7-4-1 Establishment of Speed Zones.

- A. The City Council may establish upon any public street limited speed zones which shall constitute the maximum speed at which any person may operate any vehicle.
- B. The beginning of such limited speed zones shall be conspicuously indicated by sign stating the speed limit.

##### 7-4-2 Speed Limits. Except as may otherwise be provided by the City Council, it shall be unlawful for any person to operate or drive any vehicle at a rate of speed greater than the following:

- A. Fifteen (15) miles per hour with any business district.
- B. Fifteen (15) miles per hour on any alley.
- C. Twenty (20) miles per hour within any residential district.
- D. The appropriate maximum speeds established by state law on all other unmarked streets and highways within the City.

#### **Chapter 7-5: Parking, Stopping**

##### 7-5-1 Obstruction of Traffic. No vehicle shall be operated or allowed to remain upon any street under the jurisdiction of the City in such a manner as to form an unreasonable obstruction to traffic. Whenever any law enforcement officer finds a vehicle which constitutes an obstruction, such officer shall be authorized to provide for the removal of such vehicle by towing, if necessary, at the owner's expense. (SDCL 32-30-2.1, 2.2)

##### 7-5-2 Parking in Streets During Snow Removal. Whenever there is an accumulation of two (2) inches or more of snow on the streets in the City, a snow removal emergency shall be declared, and street parking shall be prohibited. Parking on any public street shall be completely prohibited, on both sides and regardless of the directional run of that street, during the existence of a snow removal emergency. The snow removal emergency shall terminate, and parking may resume, whenever such street has been cleared of snow completely, until the next snow removal alert is declared. Fines for ticketing vehicles shall be fifty dollars (\$50.00) for each day

of violation.

7-5-3 Parking Prohibited in Certain Places. It shall be unlawful for the operator of any vehicle to stop, stand, or park in any of the following places, except when necessary to avoid conflict with other traffic or in compliance with the directions of a law enforcement officer or traffic control device (SDCL 32-30-6, 6.1, 6.2)

- A. In any intersection.
- B. In a crosswalk.
- C. Within fifteen (15) feet of a fire hydrant.
- D. At any place where the vehicle would block the use of a driveway.
- E. Within twenty (20) feet of the driveway entrance of the fire/ambulance station.
- F. On any sidewalk.
- G. At any place where official signs prohibit parking.
- H. In any public alley.
- I. Inside of curb, on street right-of-way; that being the area between the back of the curb to the property line.

7-5-4 General Parking Restrictions. No vehicle shall be parked with the left side of such vehicle next to the curb, except on one-way streets. It shall be unlawful to park any vehicle upon any street for the purpose of displaying it for sale, or to park any vehicle upon any business street from which vehicle merchandise is peddled unless authorized by the City Council. It shall be unlawful for large vehicles, otherwise parked legally, to be parked so as to block or impede traffic. It shall be unlawful to park any motor vehicle on any private property without the consent of the owner of the property.

7-5-5 No Parking Areas. The City Council shall cause signs to be posted in all areas where parking is limited or prohibited, indicating such limitations or prohibitions, except that yellow curb painting may be used to indicate "No Parking" in certain street areas. (SDCL 9-31-1)

7-5-6 Parking and Storage of Certain Vehicles. Automotive vehicles or trailers without current license plates shall not be parked or stored on any public property or right-of-way within the City.

7-5-7 Handicapped Parking Areas. Parking in those areas so designated as handicapped parking areas by signs and pavement striping shall be restricted to those vehicles

identified, by window sticker and/or license plate, as being operated by handicapped drivers. It shall be unlawful for any person to park in a handicapped area without such identification on his or her vehicle. (SDCL 32-30-11.1, 11.2, 11.3, 11.4, 11.6)

## **Chapter 7-6: Trucks**

### **Definitions**

- A. Trucks: Any motor vehicle designed or operated for the transportation of property, including a vehicle directly connected to a trailer. The word “truck” shall include, but not be limited to, trucks, trailers, semi-trailers, tractors, and farm wagons.
  - B. Motor Vehicle: All machines propelled by any power other than muscular used upon the streets or highways for the transportation of property.
  - C. Trailer: A vehicle of the trailer type, without a power unit of its own, designed and used in conjunction with a motor vehicle for the transportation of property.
  - D. Truck Route: Streets and highways designated as truck routes by the City Council.
  - E. Streets: All other streets within the City which are not designated as truck routes by the City Council.
- 7-6-1      Truck Routes. The City Council is hereby authorized to establish within the City truck routes to be designated as US Highway 12, SD Highway 253 and Edmunds County 3.
- 7-6-2      Operation of Trucks. Where any truck route has been established and identified, any person operating a truck having a gross weight of five (5) tons or more shall operate it only on such route or routes, except where necessary to traverse another street or streets to a destination for the purpose of loading or unloading commodities or for the purpose of towing a disabled or damaged motor vehicle to or from public or private property, and then only by such deviation from the nearest truck route as is reasonably necessary.
- 7-6-3      Exceptions to Use of Trucks Routes. There shall be the following exceptions to the use of truck routes.
- A. A truck arriving at the end of a designated truck route may be driven by the most direct course to the nearest truck route which extends in the same general direction.
  - B. The City Council shall have the authority, for good cause and upon request, to issue temporary permits for trucks to operate over routes not established as truck routes by the City or to otherwise deviate from the provisions of this Chapter.

- C. The operator of a "Truck" as referred to in this Chapter (except semi-trailers) may deviate from the truck route for the purpose of taking such truck to the owner's personal residence or parking facility, but the truck must be parked on the owner's real property and not on City streets or City property. In this instance, the vehicle shall make no more than one trip to and from the owner's personal residence or parking facility per day.
- D. The provisions of this Section shall not apply to school buses, emergency vehicles of the Fire Department, any public utility vehicles where actually engaged in the performance of emergency duties necessary to be performed by said public departments or public utilities, nor to any vehicle owned by or performing work for the City, the United States of America, or the State or any of its political subdivisions.

7-6-4 Parking of Trucks. All freight, stock, and gas and oil transport trucks shall be parked only at such places and in the manner as designated by the City Council. This Section shall not apply to a light delivery truck delivering goods from house to house and place to place which requires a stop or parking of no more than a few minutes at a time to receive or deliver merchandise.

7-6-5 Trucks Standing or Parking in Alleys. Trucks shall not stand or park in any public alley except for the purpose of receiving or delivering property and for no longer time than is necessary to load or unload. Such trucks, when loading or unloading, shall stand or park on the side of the alley, in a manner so as not to impede traffic. When two or more trucks are thus standing on opposite sides of the same alley the truck last arriving shall be placed in such staggered positions as to leave sufficient space between it and the first truck for the free passage of other vehicles.

7-6-6 Dynamic Braking Devices. It shall be unlawful to operate any motor vehicle with a dynamic braking device engaged, except for the purpose of averting imminent danger. Dynamic braking device (commonly referred to as Jacobs Brake) means a device used primarily on trucks for the conversion of the engine from an internal combustion engine to an air compressor for the purpose of braking without the use of wheel brakes.

7-6-7 Fines. The fine for not using designated truck routes shall be \$200.00 and will be payable to the City.

**Chapter 7-7: Miscellaneous Provisions**

7-7-1 Street Closing. The City Council reserves the right to close any street to all traffic and/or to all truck and heavy equipment traffic as the City Council feels necessary to maintain the condition of the street.

7-7-2 Clinging to Moving Vehicles. It shall be unlawful for any person traveling upon any

bicycle, motorcycle, coaster, sled, roller skates, or any toy vehicle to cling to or attach himself/herself or his/her vehicle to any other moving vehicle or streetcar upon any road.

- 7-7-3 Riding on Outside of Vehicle. No person driving a vehicle shall allow any person to ride upon any portion thereof not designated or intended for the use of passengers. This provision shall not apply to the persons riding with truck bodies in space intended for merchandise.
- 7-7-4 Tampering with Vehicles. It shall be unlawful for any person to tamper with the motor vehicle of another, with intent to injure the same or cause inconvenience to the owner thereof, or to operate the motor vehicle of another without the consent of the owner or person lawfully in charge thereof.
- 7-7-5 Immediate Notice of Accident. The operator of a vehicle involved in an accident resulting in injury to or death of any person, or resulting in any property damage, shall immediately, by the quickest means of communication, give notice of such accident to a law enforcement officer.
- 7-7-6 When Driver Unable to Report. An accident report shall not be required from any person who is physically incapable of making such report during the period of incapacity. Whenever the operator of a vehicle is physically incapable of making such report or is physically incapable of giving an immediate notice of an accident and there is another occupant in the vehicle at the time of the accident capable of doing so, such occupant in the vehicle at the time of the accident shall cause to be given such report to a law enforcement officer.
- 7-7-7 Duty to Give Information, Render Aid. The operator of any vehicle involved in an accident resulting in injury to or death of any person or damage to any vehicle which is driven or attended by any person shall give his name, address and, if applicable, the license number of the vehicle he is driving and his operator's or chauffeur's license to the person struck or to the driver or occupant of or person attending any vehicle with which the operator collides.
- 7-7-8 Personal Injury. The operator of any vehicle involved in an accident resulting in injury to or death of any person shall immediately stop such vehicle at the scene of such accident or as close thereto as possible but shall then forthwith return to and remain at the scene of the accident until fulfilling the requirements of the section 7-7-7. (SDCL 32-34-7)
- 7-7-9 Property Damage. The operator of any vehicle involved in an accident, resulting only in damage to a vehicle which is driven or attended by any person shall immediately stop such vehicle at the scene of such accident or as close thereto as possible and shall forthwith return to and remain at the scene of such accident until fulfilling the requirements of Section 7-7-7. Every such stop shall be made without obstructing traffic more than necessary.

7-7-10 Unattended Vehicle. Property. The operator of any vehicle which collides with any other vehicle or property which is unattended shall immediately stop and shall then and there either locate and notify the operator or owner of such vehicle of the name and address of the driver and shall attach securely in a conspicuous place in or on the vehicle struck a written notice giving the operator's name and address and a statement of the circumstances thereof. In addition, the operator shall without unnecessary delay notify a law enforcement officer of such accident. (SDCL 32-34-4)

7-7-11 Duty Upon Striking Fixtures. The operator of any vehicle involved in an accident resulting in only damage to fixtures of other property legally upon or adjacent to a street shall take reasonable steps to locate and notify the owner or person in charge of such property of such fact and of the operator's name and address, the registration number of the vehicle operator and shall upon request and if available exhibit his or her operator's license and shall make report of such accident when and as required by Section 7-7-9.

7-7-12 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 arrested in the regular manner may first be given an opportunity after notice to appear voluntarily to answer for such traffic violation.

7-7-13 Notice to Appear. A person charged with violation of this Title by notice shall be given notice to appear before a court of competent jurisdiction at the time or within the time stated in such notice, 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 law enforcement 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 law enforcement officer and one copy to be filed with the court.

The person charged with the offense, if available, 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.

7-7-14 Appearance and Deposit for Fine. A person who has received a notice of traffic violation shall at or within the time specified in such notice, appear before a court of competent jurisdiction to answer to the charge set forth therein according to the procedure of that court.

In cases of non-moving 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 Courts and upon making the deposit for fine as authorized by the court and a statement authorizing the Clerk of Courts to enter his plea of guilty to the offense he shall not be required to appear in court.

7-7-15 Arrest on Failure to Appear. Anyone who fails to appear in response to a notice of traffic violation shall be subject to arrest in the manner otherwise provided by law.

## **Chapter 7-8: Snowmobiles**

### **Definitions**

- A. Operate: To control the operation of a snowmobile.
  - B. Owner: Any person, other than a lien holder, having the property in or title to a snowmobile and entitled to the use or possession thereof.
  - C. Private Property: Any and all real property or land within the City which has not been opened or dedicated for public use or as a public thoroughfare.
  - D. Snowmobile: Any engine-driven vehicle of a type which utilizes sled type runners, wheels, or skis with an endless belt tread of similar means of contact with the surface upon which it is operated.
- 7-8-1 Traffic Laws Applicable. The operator of a snowmobile is required to obey all traffic laws applicable to the operators of vehicles generally, in addition to those herein set forth.
- 7-8-2 Permission of Property Owner Required for Operation. No person shall operate a snowmobile on private property of another without the express permission of the owner or occupant of such property to do so.
- 7-8-3 Operation on Public Ground. No person shall operate a snowmobile on any public property, including, but not limited to, public sidewalks, school grounds, parks, parking lots, playgrounds, and recreational areas, except public roadways and ditches.
- 7-8-4 Crossing Streets at Right Angles. Persons operating snowmobiles are permitted to cross streets at right angles but may only 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.

7-8-5 Speed. No person shall operate a snowmobile at a speed greater than is reasonable or proper under all existing circumstances. At a minimum, motor vehicles laws shall be followed at all times.

7-8-6 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.

7-8-7 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.

7-8-8 Emergency Use.

- A. The City Council may declare that road or weather conditions are such as to constitute emergency travel conditions authorizing use of snowmobiles.
- 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.

7-8-9 Equipment Required. All snowmobiles operated in the City shall have the following equipment:

- A. Mufflers which are properly attached and which reduce the noise of operations of the vehicle to the minimum noise necessary for operating the vehicle, and no person shall use a muffler cut-out, bypass or similar device on such vehicle.
- B. Adequate brakes in good working condition.
- C. 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 belt.
- D. At least one (1) headlight and one (1) tail light in good working condition.
- E. A red flag or cloth not less than twelve (12) inches square and hung or suspended five (5) feet above the ground level so that the entire area thereof is visible from all directions while on any roadway, street or alley.

7-8-10 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 tow bar.

7-8-11

Exceptions. Notwithstanding the provisions of any other Section, any governmental official in charge of public school ground, park property, playgrounds, 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 recreational areas that he shall deem available for use of snowmobiles and the hours of such use.

## TITLE 8: UTILITIES

- Chapter 8-1 Utilities, General
- Chapter 8-2 Sewers
- Chapter 8-3 Water
- Chapter 8-4 Establishment of Drain Fields

### **Chapter 8-1: Utilities, General**

- 8-1-1        Duties of the Sewer/Water Superintendent or Utility Operator. Under supervision of the City Council, the City employee to whom is delegated the management of waterworks shall have charge of application for service, connection, and management and shall make such suggestions for the improvement of the service as he/she may deem advisable and shall perform such other duties as the City Council may require.
- 8-1-2        Application for Water and Sewer Service. Application for water or sewer services shall be made by the owner or agent of the property in writing to the Finance Officer stating the name, address, lot and block, and the uses for which such service is desired. No permit shall be granted until the applicant shall agree to comply with the terms and conditions of this title. No tap shall be made until said permit has been granted. Separate permits must be issued for each service connection, building, residence, business place and each branch connection when more than one connection is made by one service pipe. A permit must also be issued for making an extension or alterations to any plumbing of any house, store, or building beyond that for which permission may already have been granted. The cost of the permit will be on file with the Finance Officer. The permit fee is non-refundable.
- 8-1-3        Water and Sewer Connection- Cost. After a permit is granted and appropriate fees are paid, the City will, at their expense, provide for the extension of the Water system from the mains to the applicant's property line. The City will provide the curb stop and saddle for the water connection. The City Council Maintenance Person, or any duly authorized representative thereof, shall supervise all stages of such extension and connection.
- 8-1-4        Monthly Billings. Monthly bills are categorized as follows:
- A. Utility Bills. Bills for garbage, sewer, water, or other utility services, which may be provided by the City.
  - B. Other Bills. Bills for the rental and purchase of property and equipment owned by the City and for the cost of miscellaneous services, which may be provided by the City.

Water meters shall be read by the water user or City each month. All utility bills shall be due and payable on the 10<sup>th</sup> day of the following month of the reading. All

accounts not paid within (30) days after due shall be deemed delinquent. Upon delinquency, the Finance Officer shall send written notice to the user that water service will be terminated after five (5) days unless the balance shall have been paid in full. A late fee of \$15 shall also be imposed. In the event water service is terminated for non-payment, such service shall not be restored until the delinquent amount with late fee shall have been paid in full, plus a \$50 fee to cover the cost of disconnect and reconnect to restore water service.

- 8-1-5 Continued Service While Resident Out of City or Not Using the Water Service. Any customer planning to be gone from the City or not currently using water and sewer service will still be required to pay for water and sewer service.
- 8-1-6 Landlord Responsibility for Payments. Landlords shall be responsible for all utility payments on all of their rental property. Billings on rental property shall be billed directly to the property owner unless otherwise agreed upon by the City.
- 8-1-7 User Responsible for Operation and Maintenance of Water and Sewer Lines. The City shall be responsible for the maintenance and proper operation of the water and sewer mains only. Any other water or sewer line attached to the mains shall be the exclusive responsibility of the property owner. In the event that a property owner must excavate to repair a line, it shall be his/her responsibility to fill such excavation to the satisfaction of the City Council.
- 8-1-8 Access to Water Meter. Once per calendar year, a City employee must be allowed access to each user's meter(s) to confirm the meter reading(s).

## **Chapter 8-2: Sewer**

### **Definitions.**

- A. Biochemical Oxygen Demand (BOD). 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.
- B. Building Drain. 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 a building and conveys it to the building sewer, beginning five (5) feet to one and one half (1.5) meters outside the inner face of the inner wall.
- C. Building Sewer. The extension from the building drain to the public sewer or other place of disposal, also called house connection.
- D. Combined Sewer. A sewer intended to receive both wastewater and storm or surface water.
- E. Easement. An acquired legal right for the specific use of land owned by others.
- F. Floatable Oil. Oil, fat, or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. Wastewater shall be considered free or floatable only if it is properly pretreated

- and the wastewater does not interfere with the collection system.
- G. Garbage. The animal and vegetable waste resulting from the handling, preparation, cooking, and serving of foods.
  - H. Industrial Wastes. The wastewater from industrial processes, trade, or business as distinct from domestic or sanitary wastes.
  - I. Natural Outlet. Any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake, or other body of surface or groundwater.
  - J. pH. 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 .0000001.
  - K. Properly Shredded Garbage. 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 (1/2) inch or one and twenty-seven tenths (1.27) centimeters in any dimension.
  - L. Public Sewer. A common sewer controlled by a governmental agency or public utility.
  - M. Sanitary Sewer. 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.
  - N. Sewage. The spent water of a community, the preferred term being wastewater.
  - O. Sewer. A pipe or conduit that carries wastewater or drainage water.
  - P. Slug. Any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period or duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration of flows during normal operation and shall adversely affect the collection system and/or performance of the wastewater treatment works.
  - Q. Storm Drain. A drain or sewer for conveying water, groundwater, subsurface water, or unpolluted water from any source.
  - R. Superintendent. The superintendent of wastewater facilities of the City, or his/her authorized deputy, agent, or representative.
  - S. Suspended Solids. The 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 prescribed in "Standard Methods for the Examination of Water and Wastewater" and referred to as non-filterable residue.
  - T. Unpolluted Water. 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.
  - U. User. All residential and non-residential users including all households, apartment dwellers, housing units, industrial and commercial establishments. This term is not to include residents of a nursing home.
  - V. Wastewater. 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 storm water that may be present.

- W. Wastewater Facilities. The structures, equipment, and processes required to collect, carry away, and treat domestic and industrial wastes and dispose of the effluent.
- X. Wastewater Treatment Works. 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.”
- Y. Watercourse. A natural or artificial channel for the passage of water either continuously or intermittently.

#### 8-2-1 Use of Public Sewers Required.

- A. 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 its jurisdiction, any human or animal excrement, garbage, or other objectionable waste.
- B. 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.
- C. The owner of all houses, buildings, or properties used for human occupancy, business, 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, 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 ordinance, within sixty (60) days after date of official notice to do so, provided that said public sewer is within four hundred (400) feet of the property line.

#### 8-2-2 Private Wastewater Disposal.

- A. Where a public sanitary or combined sewer is not available, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this article.
- B. Before commencement of construction of a private sewage disposal system the owner shall first obtain written permission from the City Council. A private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the City Council. The type, capacities, location, and layout of a private sewage disposal system shall comply with all recommendations of the City and the Department of Environmental and Natural Resources, State of South Dakota. The

owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the City. No connection from any private sewage disposal system shall be made with any public sanitary sewer under jurisdiction of the City.

- C. At such time as a public sewer becomes available to a property served by a private wastewater disposal system, as provided in 8-2-1 (C), a direct connection shall be made to the public sewer within sixty (60) days in compliance with this ordinance, and any private wastewater disposal facilities shall be cleaned of sludge and filled with suitable material.
- D. No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the health officer.

8-2-3      Sanitary Sewers. Building Sewers and Connections.

- A. No unauthorized person(s) shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining written permission from the Utilities Operator.
- B. All costs and expense 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.
- C. 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 obligations or responsibility for damage caused by or resulting from any such connection.
- D. Existing building sewers may be used in connection with new buildings only when they are found, on examination and test by the Utilities Operator, to meet all requirements of this ordinance.
- E. Whenever possible, the sewer shall be brought to the structure at an elevation below the basement floor. In all buildings in which any building drain is too low to permit a 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.
- F. No person(s) shall make connection of roof down spouts, 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 Utilities Operator for

purposes of disposal of polluted surface drainage.

- G. 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. 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 Utilities Operator before installation.
- H. The applicant for the building sewer shall notify the Utilities Operator 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 Utilities Operator or his representative.
- I. All excavations for building sewer installation shall be adequately guarded with barricades and lights to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of work shall be restored in a manner satisfactory to the City and at no cost to the City.

8-2-4

Use of the Public Sewers.

- A. Storm water, other than that exempted herein, and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Utilities Operator and other regulatory agencies. Unpolluted industrial cooling water or process waters may be discharged, on approval of the Utilities Operator, to a storm sewer, combined sewer, or natural outlet approved by the Utilities Operator. No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, subsurface drainage, cooling water or unpolluted industrial process waters to any sanitary sewer.

It shall be unlawful to discharge to any natural outlet within the City, or in any area under the jurisdiction of the City, any sanitary sewage, industrial wastes, or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Title.

- B. No person shall discharge or cause to be discharged any of the following water or wastes into 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 for the wastewater treatment plant.



3. Any waters or wastes having a pH lower than 5.5, or having any corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the waste water works.
4. Solid or viscous substances in quantities or of such size as 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, paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
5. The use of the sewer system of the City, for the disposal of crude oil, refined oil, or any and all other petroleum products, shall be prohibited.

Grease, oil, and sand interceptors shall be provided when, in the opinion of the City Council, they are necessary for the proper handling of wastes. Where installed, such interceptors shall be maintained by the owner, at his expense, in continuously efficient operation at all times.

Any user discovered to have discharged any toxic pollutants into public sewer facilities, in addition to other penalties as provided by ordinance and law, shall be responsible for all costs associated with treating or otherwise disposing of such pollutants. The owner also shall maintain records of the dates, and the means of disposal, which are subject to review by the City.

- C. The disposal by any and all persons of garbage, cans, washers, filters and other foreign debris into the sanitary sewer system of the City shall also be prohibited.
- 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 health, public property, or constitute a nuisance. The City Council may set limitations lower than those established in the regulations below if, in their opinion, more severe limitations are necessary to meet the above objectives.

In determining acceptability, the City Council will give consideration to such factors as the quantity of subject water 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 150° Fahrenheit (65° Celsius).
  2. Wastewater containing more than 25 milligrams per liter of petroleum oil, non-biodegradable cutting oils, or product of mineral oil origin.
  3. Wastewater from industrial plants containing floatable oils, fat, or grease.
  4. Any non-Properly Shredded Garbage, as defined herein. 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 such that as received in the composite wastewater at the wastewater treatment works, it exceeds the limits established by the City Council for such materials.
  6. Any waters or wastes containing odor-producing substances exceeding limits which may be established by the City Council.
  7. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the City Council 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 of discharge to the receiving waters.
  10. Any waters or wastes which, by interaction with other water 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 8-2-4 (D), and which, in the judgment of the City Council, 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 City Council 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 this chapter.

When considering the above alternative the City Council shall give consideration to the economic impact of each alternative on the discharger. If the City Council 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 City Council.

Where pretreatment or flow-equalizing facilities are provided or required for any waters or wastes, they shall be maintained in satisfactory and effective operation by the owner at his expense.

- F. When required by the City Council, 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 to facilitate observation, sampling, and measurement of the wastes. Such structure shall be accessible and safely located, and shall be constructed in accordance with plans approved by the City Council. 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.
- G. The Utilities Operator may require a user of sewer services to provide information needed to determine compliance with this ordinance. This information may include, but is not limited to:
  1. Wastewater 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 materials important to sewer use control.
  5. A plot plan showing sewer and pretreatment facility locations on the user's property.
  6. Details of wastewater pretreatment facilities.
  7. Details of systems to prevent and control spills of materials into the municipal sewer.
- H. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this ordinance 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, locations, times, durations, and frequencies are to be determined on an individual basis subject to approval by the Utilities Operator.

- I. No statement contained in this chapter 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.

8-2-5 Prohibited Acts. No person(s) shall willfully or negligently damage, destroy, uncover, deface, or tamper with any structure, appurtenance or equipment which is a part of the wastewater facilities.

8-2-6 Powers and Authority of Inspectors.

- A. The Utilities Operator and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing pertinent to discharge to the community system in accordance with the provisions of this ordinance.
- B. The Utilities Operator 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. The industry may withhold information considered confidential. The industry must establish that the revelation to the public of the information in question might result in an advantage to competitors.
- C. While performing necessary work on private properties referred to in 8-2-6 (A) above, the Utilities Operator or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the City employees, and the City shall indemnify the company against loss or damage to its property by City employees and damages growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in 8-2-4 (F).
- D. The Utilities Operator and other duly authorized employees of the City bearing proper credentials and identification 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, measurement, sampling, repair, and maintenance of any portion of the wastewater facilities lying within said easement. Entry and all subsequent work shall be in accordance with the terms of the easement pertaining to the private property involved.

8-2-7 Proper Design and Construction of New Sewers and Connections. The size, slope, alignment, materials of construction of all sanitary sewers and sewer connections, and methods to be used in excavating, placing of pipe, jointing, testing, and backfilling the trench shall all conform to the requirements of the Uniform Building

Code or other applicable rules and regulations of the City and the State of South Dakota.

All sanitary sewer shall be cast iron soil pipe, ASTM specification (A74-42) or equal, vitrified clay sewer pipe, ASTM specification (C13-441) or equal; PVC; or other suitable material approved by the City Council.

Additional requirements may be provided when any part of a building sewer is located near a water service pipe, or where the sewer is exposed to damage by tree roots or unstable ground.

The size and slope of sanitary sewer shall be subject to the approval of the City Council, but in no event shall the diameter be less than four (4) inches. The slope of such pipe shall be not less than one eighth inch per foot.

Whenever possible, the sewer shall be brought to the building at an elevation below the basement floor. No sewer shall be laid parallel to or within three (3) feet of any load-bearing wall, which might thereby be weakened. The depth shall be sufficient to afford protection from frost. The sewer shall be laid at uniform grade and in straight alignment in so far as possible. Changes in direction shall be made only with properly curved pipe and fittings.

The connection into the public sewer shall be made under the supervision of the Utilities Operator.

- 8-2-8 Disconnection. When a disconnection from the sanitary sewer is made, the sewer service shall be closed to the satisfaction of the Utilities Operator. Closure shall be at the curb line on residential property and at the property line of commercial property.
- 8-2-9 Hookups. Each private citizen or public entity shall pay all charges associated with a sewer hookup and no amount of sewer hookup cost shall be borne by the City.
- 8-2-10 Sewer User Charge. Each sewer customer shall pay the required minimum monthly fee per month. At its discretion, the City Council may from time to time amend these user charges by resolution. The monthly sewer use charge shall be paid each month by the user at the same time as the water use charges.
- 8-2-11 Separate Fund. The Finance Officer is hereby directed to maintain a separate fund for the collection and accounting of the sewer use charge in accordance with generally accepted accounting practices.
- 8-2-12 Violations. Any person found to be violating any provision of this ordinance shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all

violations.

- 8-2-13 Continuing Violations. Any person who shall continue any violation beyond the time limit provided for in this section, shall be punishable by a fine set by the City Council and on file with the Finance Officer.
- 8-2-14 Penalties. Any person violating any of the provisions of this ordinance shall become liable to the City for any expense, loss, or damage occasioned the City by reason of such violation.

### **Chapter 8-3: Water**

- 8-3-1 Water Users. "Users of water" shall mean the owner or occupant of each individual residential or commercial premises, including, but not limited to, the owner or occupant of each apartment in a multiple family dwelling and of each mobile home in a mobile home park, but exclusive of hotel and motel facilities.
- 8-3-2 Application for Service. Any person, corporation or firm desiring the use of water from the City shall make application to the Finance Officer on a form to be supplied by the City. The application shall be signed by the applicants, and shall contain, among other information requested, the purpose for which the water is desired, a description and address of the premises which the water is to service, the name of the owner of said property, and if the applicant is not the owner, then the written consent of the owner shall accompany such application. Any person who shall turn on the supply of water to a service pipe from which the same has been turned-off by the City due to non-payment of water charges or for any other reason, without having first obtained permission to do so from the proper City officials, shall be subject to a fine of not less than \$200.00. Any individual/business connecting to the municipal water supply will also be required to utilize municipal wastewater. In extenuating circumstances, wastewater services may be waived if the municipality is not able to provide said service without incurring excessive expense.
- 8-3-3 Expense of Taps. All taps to the water mains and the renewal of service pipes shall be under the direction of the City Council. The City shall furnish shut-off and pipe to the curb line from the main. All expenses from the curb line to the water user are the full responsibility of the user.
- 8-3-4 Water Pipes. All connections, stop and water cocks, goose necks, and all service and stop boxes shall be of the kind and pattern prescribed by the City Council. All service pipes must be laid as much below the surface of the ground as the main pipes in the street, and in all cases, protected so as to prevent rupture from freezing. All service pipes leading from the main to any premises, or pipes leading from such service pipes to any part of the premises, shall be 3/4 inch pipe equal to state standards. Before any pipes are connected to the City mains, or attached to any service pipes leading to any part of the premises where the water is to be used, said shall be

inspected by an authorized employee of the City, and said person shall have the absolute right to refuse to allow any such pipes to be connected if deemed unfit.

- 8-3-5 Liability. All persons, businesses, etc. using water from the City's water works system for any purpose shall do so at their own risk and the City, the City Council, Finance Officer, Utilities Operator or other person in charge of the waterworks system, shall not be liable or responsible for damages growing out of the overflow or stoppage of water, or any insufficient supply of the same. All owners must, at their own expense, keep their service pipe, from the point of connection with the City water main, and all other apparatus, in good working order and properly protected from frost or other damage. No reduction will be made from rates because of leaking pipes or fixtures or for any other cause.
- 8-3-6 Discontinuance of Service. Any user desiring discontinuance of water service shall notify the Water Superintendent or Finance Officer prior to the first day of any month and shall continue to be liable for the payment of the water charge until such notice.
- 8-3-7 Premise to Have Separate Connection. Unless special permission is granted by the Water Superintendent, each premise shall have a separate service connection and, where permission is granted for branch service system, each system must have its own separate curb cock.
- 8-3-8 Water Connections. In installing water service, all taps shall be driven, street excavations made, curb cocks inserted, pipes installed from main to curb, and the curb cock installed in an iron box to which the service is to be connected, by a City employee or by a plumber duly licensed. After City inspection of the water system, piping from the main to the curb stop, but not including the curb stop, shall be the property of the City and maintained by it.
- 8-3-9 Water Service Pipes. The water service pipe from the street main to the water-distribution system for the building, shall be of brass, copper (type K or L), cast iron or plastic and shall be laid seven feet below the established grade, or as low as the street mains.
- 8-3-10 Curb, Stop and Waste Cocks. There shall be a curb cock in every service line attached to the water main, the same to be placed as near as possible to the street side of the sidewalk if on a street, or within one foot of the alley line if the main is located in the alley. Curb cocks shall be supplied with strong and suitable "T" handles, and shall be enclosed in a substantial iron case covered with a tight-fitting lid, with the letter "W" cast upon it. There shall be a valve in the pipe on the house side.
- 8-3-11 Water System Check Valves. Check valves are required on all water connections to steam boilers or other connections deemed by Water Superintendent to require one. Safety and relief valves shall be placed on all boilers or other steam apparatus

connected with the water system where the steam pressure may be raised in excess of fifty pounds per square inch. Approved duo checks shall be installed on existing systems where work is to be done by state plumbing code, and consumers with wells shall provide cross connections protection to insure against contamination.

8-3-12 Rates for Water and Sewer Service. There shall hereafter be imposed a charge against all water and sewer users based upon meter readings of the amount of water consumed as follows:

- A. A set minimum monthly fee for all residential users.
- B. In addition to the minimum monthly fee, a usage fee, calculated at the rate of gallons of water used, will be set by the City Council and on file with the Finance Officer.
- C. All apartment units with individual meters are charged under the normal residential users as described above. Apartment complexes without individual meters for each unit will be charged a minimum monthly fee, which will be set by the City Council and on file with the Finance Officer, in addition to the normal usage fee.

Current Rates/Policies in effect for the following users:

Residential Users – rates are on file with the Finance Officer.

Seasonal Disconnect/Reconnect Fees – There shall be a fee imposed to cover the cost of seasonal based disconnect and reconnect services.

Water User Deposit - All new users of water and reconnect users whose services were terminated because of delinquency shall deposit the required sum with the Finance Officer which shall be considered a deposit.

Upon termination of water service to a water user and all utility bills (water, wastewater and garbage) have been paid, the Finance Officer shall refund the deposit to the water user within thirty (30) days following termination of service. If at the time of the termination of service said water user is indebted to the City for unpaid utility bills, the Finance Office may withhold such amount from the deposit and tender the balance, if any, to the terminated water user. If the water service is terminated because of delinquent account, in additions to the requirements of this Section, said water user shall be required to deposit funds to restore the full \$175 deposit.

8-3-13 Billing and Payment. All accounts shall be carried in the name of the property owner who, personally, or by his authorized agent, shall apply for such service. Monthly billings are completed by each property owner. Property owners receive a monthly utility book with the rate schedule for water usage. The property owner reads their water meter, calculates the correct payment amount and makes payment to the city. The Finance Officer reviews each payment and confirms that the correct amount has been paid. The payment amount shall be due and payable to the Finance Officer



forthwith and, if not paid on or before the tenth day of the month, a penalty charge shall be added. The penalty charge will be set by the City Council and on file with the Finance Officer.

8-3-14      Separate Fund. The Finance Officer is hereby directed to maintain a separate fund for the collection and accounting of the sewer use charge in accordance with generally accepted accounting practices

8-3-15      Collection Charges. Any amount due hereunder for water charges may be collected in an action brought for that purpose in the name of the City against the water user and property owner, or the Finance Officer may certify to the County Auditor the amount due from Water charges, including penalty, together with the legal description of the premises served with a request that the County Auditor thereupon enter such amount with the tax levy on said premises, collectible with the taxes for the ensuing year. The property owner shall be liable for water service to the premises whether he/she is occupying the premises, or not, providing that nothing herein shall prevent the Water Superintendent from ordering discontinuance of service to any such premise until any such bill shall have been paid.

8-3-16      More Than One (1) Consumer from One (1) Service. Two (2) or more premises cannot be supplied from the same service pipe unless each premise has its own curb stop. Owners of buildings who lease or subdivide shall be responsible for all water used in said premises. If more than one (1) meter is placed upon one (1) service pipe, the piping must be arranged such that each meter can be set on separate pipe lines and shall be so placed that no one of them shall measure water which has passed through another meter.

8-3-17      Cutoffs. All stop boxes and cutoffs for controlling the supply of water to consumers shall be placed ten (10) feet from the property line nearest to the main where the tap is to be made with the top of the stop box even with the grade of sidewalk or parking. However, this rule shall not apply where a valve in the street, which is covered by a manhole, controls the water supply. All such cutoffs are under the control of the City. The user or owner of the premises supplied with water shall be responsible for any damage to the curb-box.

8-3-18      Meter Policy. All places supplied with water shall be metered by a meter furnished by the City and of a type approved by the City Council under the direction of the City Council or its employees. All meters shall be tested before installation and be installed under the direction of the City Council or its employees.

Any person, user, and/or business who tampers with, bypasses, or otherwise causes a false or inaccurate reading of a water meter, or who interferes with or refuses access to a City employee to said property for the purpose of inspecting or reading the water meter, shall be subject to immediate termination of water service, and further, shall be subject to a fine of up to \$500.

- 8-3-19      Placing of Meters and Cutoff Valves. All meters shall be suitably placed on a service pipe with a compression stop and waste on the inlet side and next to the meter so as to be easily accessible and, whenever possible, not to exceed two (2) feet from the wall or place where the service pipe enters the building or structure. The meter shall be kept free from all obstructions so that the same may be easily read and inspected and shall be protected from freezing or other damage. The cutoff valve shall have a handle or wrench attaching thereto for the purpose of turning the same and must be kept accessible at all times. One (1) inch and larger meters shall have cutoff valves on both inlet and outlet side. Meters of two (2) inch size or larger shall have a tee with one (1) inch opening inserted between meter and stop valve on the outlet side of the meter.
- 8-3-20      Meters Failing to Register. In cases where water meters fail to register the amount of water passing through them by being stopped up or from any cause whatsoever, the quantity used shall be determined and the charge made based upon the average amount used during two (2) or more preceding periods of similar length.
- 8-3-21      Boxes for Meters. All meters located outside of cellars must be placed in boxes. All such outside meter boxes must be constructed of brick, stone, cement or other material other than wood, and be not less than three (3) feet long and two and one-half (2 ½) feet wide, inside measurement, and must be provided with two (2) close-fitting covers so arranged as to provide a dead air space between each cover, and with steps to enable one to descend into the box. The top of the meter box shall be at grade.
- 8-3-22      Damage to Meters. If any water meter owned by the City shall be damaged while on the premise of a consumer by carelessness of the owner or occupant, the consumer must pay for the repairs to put said meter in good working condition or purchase a new meter.
- 8-3-23      Breaking Seals. No person shall break any seal upon any meter, valve, private fire hydrant or other fixtures that may be sealed by the direction of the City Council or its employees. Provided that the seals on private fire hydrants and private fire protection valves may be broken in case of fire and when so broken shall be reported to the City Council within twenty-four (24) hours.
- 8-3-24      Testing Meters. If a consumer doubts the accuracy of any meter, he/she may ask the Maintenance Person to have the meter tested by an outside agency. If the meter is more than five (5) percent fast, proper deductions will be made from the bill from the preceding period. If the water meter is more than five (5) percent slow, the proper amount will be added to the bill. The cost of testing the meter will be borne by the customer if the meter proves to be accurate, the cost of testing the meter shall be borne by the City if the meter proves to be inaccurate. The fees for testing by an outside contractor will be determined by the contractor.
- 8-3-25      Water Shut off – Repairs. The City reserves the right to discontinue service to any

or all customers of the water system without notice when necessary for repairs. No claim shall be made against the City by reason of the breaking of any service pipe or apparatus, or for any other damage that may result from shutting off water for repairing or any other purpose, or for any variation in pressure or ram of water from mains.

8-3-26 Water Shut off – Expense. When water service has been shut off due to nonpayment of bills or for violation of any of the rules and regulations of the City, it will not be turned on again until all the arrears are paid together with any additional fees as stated in this Title for shutting off and turning back on. If any person from whose premises the water has been shut off for any of the reasons herein provided shall turn the water on or cause the same to be turned on without authority from the City Council or its employees, he/she shall be deemed guilty of a misdemeanor.

8-3-27 Water Rationing. The City has the authority to impose water rationing in case of a water shortage or repairs to the water system, on a basis to be determined by resolution of the City Council. Notice of water rationing may be given to the public by publication of restrictions in the official newspaper or, if possible, by radio or TV announcement at least twenty-four (24) hours in advance of the effective date of such restriction, or by posting a sign stating such at the Roscoe Post Office; and it shall be unlawful for any person, firm, or corporation, to use City water in the manner or at the times restricted by such resolution.

8-3-28 Use of Water during Fires. During the time of fires, the use of water for lawn purposes is prohibited, and any person violating this section is guilty of a misdemeanor.

8-3-29 Drilling of Wells.

A) Drilling prohibited generally. It shall be unlawful for any person to drill a water well for the purposes of extracting water.

B) Drilling in case of extraordinary or emergency circumstances. In a case of extraordinary circumstances or an emergency making it necessary for such a well to be drilled, and prior to the commencement of drilling, a person may make application to the City for a drilling permit. The City Council shall hold a hearing on such application and may, after hearing and upon appropriate findings, authorize the issuance of such a permit. Upon application and hearing, the applicant shall be required to show:

1. That there exists an urgent necessity for the drilling of such well;
2. That it is impracticable or impossible to obtain the necessary water from other sources and the reasons that the same is impracticable or impossible;
3. That the applicant will establish and institute such safety standards as shall be desirable and necessary to prevent injury to the health, safety and well-being of the residents, citizens and inhabitants of the City, and the specific safety

- standards which the applicant proposes;
4. That the proposed well will not constitute a breach or violation of the terms and provisions of any subdivision restrictions or restrictive land covenants that may be in force and effect; and
  5. That the proposed well will not represent a potential hazard to residential subdivisions or properties in residential use, either adjoining or abutting the proposed drilling site.

At the time of hearing, the City Council may inquire into such circumstances and conditions which it may find to exist which either justify the issuance of a permit hereunder or which necessitates the denial of such a permit upon a determination of the likely impact of such drilling on the health, safety and well-being of the residents, citizens and inhabitants of the City.

- C) Drilling for City Services Purposes. Nothing herein shall prevent the drilling of necessary wells by the City or by contractors authorized by the City as to such drilling for the purposes of providing necessary City services, or by any lawfully created and existing municipal utility district or other body politic which may be created from time to time and be charged with the function of providing City service or services customarily provided by the City.

8-3-30 Penalty: Water. A person who violates this ordinance is guilty of a separate offense for each day or part of day the violation is committed, permitted, or continues. Each offense, upon conviction, is punishable by a fine set by the City Council and on file with the Finance Officer.

#### **Chapter 8-4: Establishment of Drain Fields.**

8-4-1 Regulations. It shall be unlawful for any person, firm, or corporation to establish new drain fields within City limits.

## **TITLE 9: MODULAR MANUFACTURED AND MOBILE HOME PROVISIONS**

Chapter 9-1 Modular Manufactured Homes and Standards

Chapter 9-2 Mobile Homes Types

Chapter 9-3 Installation Standards

Chapter 9-4 Moving a Mobile Home

### **Chapter 9-1: Modular Manufactured Homes and Standards**

9-1-1 Definitions of Modular Home Regulations. In order to be allowed within City limits, modular homes shall meet or exceed all of the following requirements:

- A. Modular homes shall meet or exceed the International Building Codes.
- B. Modular homes will include all off-site constructed homes, which may be transported to the site in one or more sections.
- C. Modular homes shall have more than 1,000 square feet in ranch style and 850 square feet split and be placed on a permanent foundation. The foundation shall be to a depth below the frost line.
- D. Modular homes shall have a minimum of a 3 1/2 roof pitch.

### **Chapter 9-2: Mobile Home Types and Standards.**

9-2-1 Type I Manufactured Home. In order to be allowed within City limits, Type I manufactured homes shall meet or exceed the following requirements:

- A. Have more than 1,100 square feet of occupied space in a double-section or larger multi-section unit.
- B. The age of the manufactured home may not exceed ten (10) years from the date of manufacture.
- C. Be placed on a permanent foundation. The foundation shall be to a depth below the frost line.
- D. Utilize a permanent perimeter enclosure in accordance with approved installation standards, as specified in Chapter 9-3.
- E. Be anchored to the ground, in accordance with manufacturer's specifications, or as prescribed by the ANSI/NFPA 501A standards.
- F. Have a gabled roof with a pitch of at least 1 ½ feet.
- G. Have a siding material of a type customarily used on site-constructed residences.
- H. Have roofing material of a type customarily used on site-constructed residences.

9-2-2 Type II Manufactured Homes. In order to be allowed within City limits, Type II manufactured homes shall meet or exceed the following requirements:

- A. Have more than 700 square feet of occupied space in a single, double, expand,

or multi-section unit.

- B. Utilize a permanent perimeter enclosure in accordance with approved installation standards, as specified in Chapter 9-3.
- C. Be anchored to the ground, in accordance with manufacturers specifications, or as prescribed by the BNSI/NFPA 5018 standards.
- D. Have siding material of a type customarily used on site-constructed residences.
- E. Have roofing material of a type customarily used on site-constructed residences.
- F. The age of the manufactured home may not exceed ten (10) years from the date of manufacture.
- G. Be placed onto a support system, in accordance with approved installation standards, as specified in Chapter 9-3.

9-2-3 Type III Manufactured Homes. In order to be allowed within City limits, Type III manufactured homes shall meet or exceed the following requirements

- A. Have more than 700 square feet of occupied space in a single, double, expand or multi-section unit.
- B. Utilize a permanent perimeter enclosure in accordance with approved installation standards, as specified in Chapter 9-3.
- C. Be anchored to the ground, in accordance with manufacturer's specifications or as prescribed by the ANSI/NFPA 501A standards.
- D. The age of the manufactured home may not exceed ten (10) years from the date of manufacture.

### **Chapter 9-3: Installation Standards.**

9-3-1 Permanent Perimeter Enclosures. Permanent Perimeter Enclosures will be required of all types of manufactured homes (Type I, II, III). Those manufactured homes designated in Chapter 9 as requiring permanent perimeter enclosure must have footings and crawl space or basement walls. The space between the floor joints of the home shall be completely enclosed with the permanent perimeter enclosure, except for required openings.

9-3-2 Foundation Siding/Skirting. All manufactured homes without a permanent perimeter enclosure shall have an approved foundation siding/skirting enclosing the entire perimeter of the home.

9-3-3 Support Systems.

- A. All HUD-code manufactured homes of the Type I classification shall be installed with load bearing foundations in conformance with the manufacturer's installation specifications.
- B. Type II and III manufactured homes not placed on a permanent foundation shall be installed on a support system in conformance with the manufacturer's

installation specifications or with the support system regulations in the ANSI/NFPA 501A 1977 installation standards.

9-3-4 Structural Alterations. Due to its integral design, the City Council must approve any structure alteration or modification of a manufactured or mobile home after it is placed on the site.

9-3-5 Parking of Trailer Houses. Wherever in the City limits such trailers are parked, the person owning the property on which said trailers are parked shall be held responsible for the observation of City Health Regulations. Any violation of the above ordinance shall be punishable by a fine set by the City Council and on file with the Finance Officer.

## TITLE 10: TAXATION

### Chapter 10-1: Municipal Sales and Service Tax and Use Tax

#### **Chapter 10-1: Municipal Sales and Service Tax and Use Tax**

- 10-1-1      Purpose. The purpose of this ordinance is to provide additional needed revenue for the City of Roscoe, Edmunds County, South Dakota 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 10-52 entitled Uniform Municipal Non-Ad Valorem Tax Law, and acts amendatory thereto.
- 10-1-2      Effective Date. From and after July 1, 2014 there is hereby imposed as a municipal retail occupational sales and service tax upon the privilege of engaging in business a tax measured by two Percent (2%) on the gross receipts of all persons engaged in business within the jurisdiction of the municipality of Roscoe, Edmunds County, South Dakota, who are subject to the South Dakota Retail Occupational Sales and Service Tax, SDCL 10-45 and acts amendatory thereto.
- 10-1-3      Use Tax. In addition there is hereby imposed an excise tax on the privilege of use, storage and consumption within the jurisdiction of the municipality of items purchased from and after July 1, 2014, at the same rate as the municipal sales and service tax upon all transactions or use, storage and consumption which are subject to the South Dakota Use Tax Act, SDCL 10-46, and acts amendatory thereto.
- 10-1-4      Collection. Such tax is levied pursuant to authorization granted by SDCL 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.
- 10-1-5      Interpretation. It is declared to be the intention of this ordinance and the taxes levied hereunder that the same shall be interpreted and construed in the same manner as all sections of the South Dakota Retail Occupational Sales and Service Act, SDCL 10-45 and acts amendatory thereto, and the South Dakota Use Tax, SDCL 10-46, and acts amendatory thereto, and that this shall be considered a similar tax except for the rate thereof to that tax.
- 10-1-6      Penalty. Any person failing or refusing to make reports or payments prescribed by this ordinance 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 five hundred dollars (\$500.00) or imprisoned in the county jail for thirty (30) days, or both such fine and imprisonment. In addition, all such collection remedies authorized by SDCL 10-45, and acts amendatory thereto, and SDCL 10-46, and acts amendatory thereto, are hereby authorized for the collection of these excise taxes by the Department of



Revenue.

10-1-7 Separability. If any provision of this ordinance is declared unconstitutional or the application thereof to any person or circumstances held invalid, the constitutionality of the remainder of the ordinance and applicability thereof to other persons or circumstances shall not be affected thereby.

## **TITLE 11: REPEALING CLAUSE AND SCOPE OF REVISION, PENALTIES, AND GENERAL PROVISION**

### Chapter 11-1: Repealing Clause and Scope of Revision

#### **Chapter 11-1: Repealing Clause and Scope of Revision, Penalties, and General Provisions.**

- 11-1-1        Conflicting Ordinances Repealed. All ordinances and parts of ordinances in conflict with the provisions of this ordinance or relating to the subject matter of this ordinance and not reenacted as part of this ordinance, except as stated in this Title, are hereby repealed, provided, however, that nothing herein shall be construed as repealing any special ordinances, appropriation ordinances, levying ordinances for issuance of bonds, other special ordinances of like character, or those ordinances requiring special method of enactment.
- 11-1-2        Penalties, General. Except in cases where a different or additional penalty is imposed by this ordinance or by some existing provisions of law, every violation of any of the provisions of this ordinance shall be punishable as a Class 2 Misdemeanor under South Dakota statutes, and shall be subject to the maximum fines and imprisonment provided for Class 2 misdemeanor violations. (SDCL 9-9-13 and 22-6-2(2))
- 11-1-3        Unconstitutionality. Should any section, paragraph, sentence, clause, or phrase of this ordinance be declared unconstitutional or invalid for any reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.
- 11-1-4        Publication and Effect. The ordinance shall take effect upon its adoption and publication of the notice of such adoption as provided by SDCL 9-19-17.