

TITLE 1 – ADMINISTRATIVE

Chapter 1-1 – Personnel and Expenditure Policies

Chapter 1-2 - Mayor and City Council

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Chapter 1-1 – PERSONNEL AND EXPENDITURE POLICIES

1-1-1 Municipal Personnel Policies

REPEALED effective January 3, 2006. (2005ORD832)

1-1-1.1: Personnel Manual

A. Definition: All persons performing services for the city and who are not appointive officers of the city shall be deemed employees.

B. Employment At Will: The city recognizes that South Dakota is an employment at will state and the intent of the city is to maintain employment at will status of all employees. Nothing contained herein or in the personnel manual of the city shall be construed to limit or modify the at will status of any employee of the city.

C. Personnel Policy Adopted:

1. A personnel policy manual is hereby authorized to be maintained by the city council for the purpose of regulating the following major areas and any other provisions deemed appropriate by the city council. Said manual is on file in the office of the finance officer, and shall be made available to all employees. The personnel policy manual shall not apply to appointed officers of the city except to the extent determined applicable by the city council, i.e.:

Attendance and leave

Termination of employment

Disciplinary action, demotion, suspension and dismissal

Grievance policy and appeal procedure

General provisions

2. The personnel policy manual does not confer a contract of employment upon any employee. The policies, procedures, rules and benefits contained therein are at all times subject to change upon a majority vote of the city council. The policies are provided as a reference of present policies and not a guarantee of employment or specific employment benefit.

D. Employee Classification; Positions Authorized: Employees of the city shall be classified as salaried, hourly, exempt and nonexempt in conformance with applicable state and federal law. The employee positions within the city and its departments to which personnel may be hired, and the compensation authorized for each such

position, shall be as authorized by the common council. No person shall be hired for employment with the city or any department of the city except in conformance with an authorizing plan approved by the common council.

E. Employee Wages And Benefits: Employee wage rates and salaries, including any step plan or wage and/or salary gradations, shall be determined by resolution of the city council. Employee benefits supplemental to wages and salary shall be as from time to time determined by the common council. Except as may be contained in a collective bargaining contract, in no event shall any such employee wage and/or benefit determination be deemed contractual.

F. Employee Retirement System: All ordinances establishing retirement system(s) for the employees of the city within the South Dakota retirement system are maintained and not repealed by the enactment of this code. (2005ORD832)

G. Effective Date of this ordinance shall be January 3, 2006.

1-1-2 Department Heads, Appointed Official and Employees

Department Heads

- *Auditorium Superintendent
- *Finance Officer
- *Library Department Head
- *Water and Sewer Superintendent
- *Street Superintendent

Appointed Department Head

- *Chief of Police

Additional Full-Employees

- *Auditorium and Park Split-Time Assistant
- *Deputy Finance Officer
- *Patrolman (Uncertified, less then one year)
- *Patrolman (Certified, less then one year)
- *Patrolman (Certified, more then one year)
- *Police Captain
- *Police Sergeant
- *Radio/911 Dispatcher (Uncertified)
- *Radio/911 Dispatcher (Certified)
- *Radio/911 Relief dispatcher (Uncertified)
- *Radio/911 Relief Dispatcher (Certified)
- *Street Department Personnel
- *Water Plant Manager and Waste Water Plant Manager
- *Waste Water and Water Plant Personnel
- *Assistant Water Superintendent

Permanent Part- Time Employees

- *Children's Librarian
- *Library Aide

Permanent Part- Time Employees

- *Library Relief Worker
- *Library Custodians
- *Lifeguard (No Experience)
- *Lifeguard (One Year or More Experience)
- *Park employee
- *Swimming Pool Manager
- *Swimming Pool Support Staff
- *Laborer

Appointed Employees

- *Fire Department Chief
- *Fire Department Secretary
- *Zoning Officer

Elected Officials

- *Mayor
- *Council Members

1-1-3 Official Bonds

All appointed officers shall qualify within thirty days after their appointment and, before entering upon the discharge of their duties, by taking and subscribing an oath of office in the form required by the constitution of this state and by furnishing an undertaking to the City of Mobridge to be approved by the City Council in such sums as said City Council shall prescribe by ordinance or resolution where the amount of such undertaking is not fixed by state law. Said bond shall be conditioned for the faithful discharging of the duties of their respective officers and to account for, pay over and deliver all money coming into their hands by virtue of their office, according to law. All such undertakings or bonds, after being approved, shall be filed with the City Finance Officer.

1-1-4 Age Qualifications

REPEALED effective January 3, 2006. (2005ORD832)

1-1-5 Appropriations

All annual appropriations shall be set ordinance and kept on file for public review in the office of the City Finance Officer.

1-1-6 Equal Opportunity Statement

REPEALED effective January 3, 2006. (2005ORD832)

CHAPTER 1-2 MAYOR AND CITY COUNCIL

1-2-1 Mayoral Duties

The Mayor shall preside at all meetings of the Council but shall have no vote except in case of a tie or when the zoning board is impaneled. He or she shall perform such other duties as may be prescribed by the laws and ordinances, and shall take care that such laws and ordinances are faithfully executed. He or she shall give the Council information relative to the affairs of the City, and shall recommend for their consideration such measures as he or she may deem expedient. He or she shall have the power to sign or veto any ordinance or resolution passed by the Council, and the power to veto any part or item of an ordinance or resolution appropriating money.

1-2-2 Meetings

Regular meetings of the governing body shall be held in the City Hall on the dates and at the times as the Council shall adopt by resolution. This schedule is subject to change in the case of a Monday holiday. Special meetings may be called at any time by the Mayor to consider such matters as may be mentioned in the call for the meeting.

Until such time as the Council adopts a resolution changing the meeting times, the regular meetings shall be held on the first and third Mondays of each month at the hour of 5:30 P.M.

1-2-3 Notice of Special Meetings

The Finance Officer shall issue written notice of each special meeting to Council Members and further comply with State Law, stating by what authority the meeting is called, the time and place of holding such meeting, and the matters to be considered, with 24 hour notice, unless such meeting is an emergency. In either case, the news media shall be informed of said meeting giving them time to attend the proceedings.

1-2-4 President and Vice President

At the first regular meeting after the annual election in each year and after the qualifications of the newly elected councilmen, the Council shall elect from among its own members a president and vice president who shall hold their respective offices for the municipal year.

The President of the Council, in the absence of the Mayor, shall be the presiding officer of the Council, and during the absence of the Mayor from the City or his or her temporary disability, shall be acting Mayor and possess all of the powers of the Mayor.

In the absence or disability of the Mayor and President of the Council, the Vice President shall perform the duties of the Mayor and President of the Council. In the event of the death of the mayor, the President of the Council shall act as mayor and receive the pay of the mayor. He/she shall retain the duty of mayor until the council officially appoints him/her, selects a new mayor, or a city election is held for the office of mayor.

1-2-5 Supervision of Departments

The Mayor, with the approval of the Council, at the first meeting in May of each year, shall appoint two members of the Council to act in a supervisory capacity in the departments of airport, auditorium, park, police, pool, sewer, street, water, and three mile board and further, one member of the Council shall be appointed as a representative in the area of fire, library board, NECOG, the planning commission, USDA – Rural Development and any other departments of the City Council persons assigned to the departments and the mayor shall conduct annual department head reviews. Appointed employees shall be reviewed annually by the mayor and two appointed council persons. All other employees shall be reviewed annually by their department head and council persons in charge, and such Council person, so appointed, shall have supervision over the department to which he or she is named as supervisor, and shall from time to time and as requested by the Council, report as the condition and matters in said department.

1-2-6 CITY ADMINISTRATOR

A. Office Established

The office of City Administrator is hereby established.

B. Appointment of City Administrator

The City Administrator shall be appointed by the Mayor of the City of Mobridge with a majority vote of the City Council members, and said appointment is for an indefinite term.

C. Removal of City Administrator

The City Administrator may be removed at any time by the Mayor, with the consent of a majority vote of the council.

D. Powers and Duties

The City Administrator shall be the chief administrative officer of the City and shall be responsible to the Mayor and Council for the proper administration of the City. The Administrator shall have the power and shall be required to:

1. Recommend the appointment and removal of department heads and upon recommendation of a department head, the employment, discharge, or discipline of any other employee in accordance with City policies, to the Mayor and Council;
2. Prepare and submit the annual budget in conjunction with the City Finance Officer, prior to August 1 to the Mayor and Council, together with an explanation of important features, and be responsible for its administration in conjunction with the City Finance Officer after adoption;
3. Prepare and submit an annual report on the finances and administrative activities of the City as of the end of the fiscal year in conjunction with the City Finance Officer, to the Mayor and Council;

4. Provide current and accurate information on the financial condition and future fiscal needs of the City with appropriate recommendations to the Mayor and Council;
5. Oversee the various departments of the City and work in conjunction with the department heads to insure that the policies of the Council are being properly implemented and administered;
6. Recommend necessary measures for the continuation and improvement of administrative services to the Mayor and Council;
7. Recommend the consolidation and expansion of offices, positions, or departments as may be deemed necessary for the improvement of City services to the Mayor and Council;
8. Attend all meetings of the Council and other City Commissions and boards, unless excused by the Mayor, and take part in the discussion of all matters presented. The administrator shall be entitled to notice of all such meetings;
9. Supervise the purchase of all materials, supplies, and equipment for which funds are provided in the budget. No purchase shall be made, contract let, or obligation incurred for any items or service which exceeds the current budget appropriation. No contract in excess of the amount established by state law shall be let except by the Council nor shall any purchase in excess of City policy be made without consent of the Council. The Administrator may issue such rules governing purchasing procedures within the administrative organization, as the Council shall provide;
10. Oversee the due enforcement of all laws and ordinances;
11. Investigate all complaints in relation to matters concerning the administration of the government of the City, and in regard to service maintained by public utilities in the City, and see that all franchises, permits, and privileges granted by the City are faithfully observed;
12. Keep apprised of rules and regulations of the utility operations of the City and work with Department heads to insure all utility operations are in compliance with state and federal rules and regulations;
13. Promote the City and its enterprises and represent the Council in addressing public concerns and in embracing the economic development activities in the City;
14. Perform such duties as may be required by the Mayor and Council, not inconsistent herewith; and
15. Recommend to the governing body a standard schedule of pay for each office and position in the City service.

E. Compensation

The administrator shall receive such compensation, as the council shall determine.

F. Saving Clause

If any provision of this ordinance is held invalid, said decision shall not affect the validity of the remaining provisions. (2004ORD803)

CHAPTER 1-3 FIRE DEPARTMENT

1-3-1 General

The volunteer fire department for the City of Mobridge shall consist of not less than 15 members nor more than 30; and the officers of the Department shall consist of a Chief, Assistant Chief, and Secretary-Treasurer. (2007ORD851)

1-3-2 Members Appointed

The officers and member fire persons shall be elected by a majority vote of the members of the fire department each year at their annual meeting. A list of the officers and members elected at such meeting shall be presented to the City Council for their approval and acceptance.

1-3-3 Duties

The Chief of the Department shall be responsible for the discipline, good order and proper conduct of the whole fire department and shall have police authority and control over all persons who may be present at any fire in said city as well as over all personnel whether regular or volunteer.

He or she shall be responsible for the enforcement of all laws and regulations pertaining to the Department and for the care and condition of all department equipment. He/she shall have the right and duty to inquire into and investigate the cause of all fires which may occur in the City immediately after such fire and write and keep on file the findings of the investigation. He or she shall cooperate with the State Fire Marshall whenever requested to do so. Annual reports shall be made available upon request. He or she shall keep a correct roll of all members of the Department, the date of admission and discharge and rate of pay. He or she shall certify all pay rolls and all bills against the City incurred for the Department. He or she shall keep a record of all members in attendance at fires and report the same together with the time actually employed at each fire.

He or she shall approve all bills of the Department presented to the City Council for payment and shall from time to time recommended to the City Council measures for the good and efficiency of the Department; and shall from time to time recommend to the City Council such new equipment as may be needed.

1-3-4 Assistant Chief, Secretary

In case of absence or inability of the Chief, the Assistant Chief shall have the same power and authority as the Chief of the Department.

The Secretary-Treasurer shall check all members called to answer alarms. He or she shall receive all money from the City that will be paid to the Department from time to time, present all bills to the Council with a list of firemen called to the fire and other expenses that may be incurred.

1-3-5 Assign Duties

The Chief shall, immediately after the appointment by the City Council, assign the members of the Department to their respective positions and duties, and make such rules and regulations for the government of the Department, not in conflict with this ordinance, as shall be necessary.

1-3-6 Care of Property

Each member of the Department shall see that the apparatus or property of the City placed in his or her charge is properly taken care of and shall, unless otherwise directed proceed as soon as possible with such apparatus to every fire that shall occur in the City, and shall proceed under such directions as may be given by the Chief of the Department, or his or her assistant if the Chief be absent, and do all that may be necessary toward extinguishing the fire and preserving property.

1-3-7 Permission to go Beyond City Limits

The Mayor, or in his or her absence, the Acting Mayor, may only in an emergency permit the Department with the apparatus to go more than one mile beyond City limits.

1-3-8 Powers as Chief

The Chief of the Department may prescribe limits in the vicinity of the fire, within which no person except those residing therein, members of the fire department, police force, members of the Council and those admitted by the Chief of the Department or his or her subordinates, shall be permitted to come, and said Chief, or officer having charge in his or her place at any fire, when in his judgment, it is necessary, may call upon any persons present to assist the fire persons in their duties. Any person neglecting or refusing to obey such call by said Chief or officer shall, upon conviction, be fined an amount if money set by the Council.

1-3-9 Chief May Remove Buildings

The Chief of the Department during the progress of any fire, whenever in his or her judgment it becomes necessary to check or control the same, shall have power to order any fence, building or erection of any kind to be cut down and removed. He or she shall also have power to tear down any portion of any building that may be standing after a fire which, in his or her judgment, may be dangerous to persons or property.

1-3-10 Discipline

Each member of the fire department is subject to the provisions set forth in the City of Mobridge's employee manual. They are expected to carry out the duties assigned them in the course of fighting a fire, or during training. Willfully disobeying orders, or violating the code of discipline as set forth in the city employee manual shall be sufficient grounds for dismissal from the department.

1-3-11 Interfering with the Department

Any person who shall willfully hinder or interfere with any City officer or fire person in the performance of his or her duty at, going to, or returning from any fire, or while attending to his or her duty as a member of the Department, or willfully or negligently drive any vehicle over, across, along or upon any hose, or shall willfully cut, deface, destroy or injure any telegraph or telephone wire, poles or signal box or any of the property or fixtures belonging to or connected with the department or the alarm, telegraph or telephone or any other person who shall, without authority, ride upon or attempt to ride upon any of the fire trucks, in going or returning from any fire shall, upon conviction, be fined an amount of \$100.00 per offense.

1-3-12 Compensation

The fire chief and fire secretary-treasurer shall receive monthly compensation as set by the annual salary appropriations ordinance. All firemen, when answering to a fire or disaster call shall be compensated at the Rate of \$4.00 for the first hour and \$3.00 for each hour thereafter. False alarms, meetings and practice sessions shall be paid at the one hour rate.

1-3-13 Duties of the Police Department

It shall be the duty of the Chief of Police or other officer in charge of the police to report immediately, at the alarm of the fire to the place where the fire may be and there report themselves and remain for the preservation of the peace and the removal of idle and suspected persons and the preservation and protection of property at and in the vicinity of the fire.

CHAPTER 1- 4 POLICE DEPARTMENT

1-4-1 General

The Police Department of the City of Mobridge shall consist of the Chief of Police and such number of police officers as from time to time the Council shall appoint; provided, however, the Mayor may appoint extra police personnel in case of emergency.

1-4-2 Term of Office

The Chief shall be appointed for one year beginning with the first council meeting in May. He/She is subject to review, and may be removed sooner at the discretion of the mayor and council. He/She shall receive such compensation as shall be fixed by resolution.

1-4-3 Chief of Police

The Chief of Police shall see that the ordinances are strictly enforced. He or she shall report to the Mayor or the City Council any violation of the City ordinances, or anything occurring within the City, which is in his or her opinion detrimental to the health or safety or good order of the City. He or she shall at all times be subject to the order of the Mayor and Council and perform such additional duties as the City Council may prescribe. He or she shall give bond for the faithful performance of his or her duties in such amount as the City Council shall direct. He or she shall perform other duties compatible with his or her office as may be provided by law or ordinance.

1-4-4 Police Officers

Each police officer when on duty shall wear the insignia of his or her office on his or her outer garments in conspicuous place, except when occasion may require that it be not exposed; and must be quiet, civil and orderly in his or her conduct and deportment, and refrain from the use of intoxicating liquors, insubordination and dereliction of duty; and it shall be the duty of the Chief of Police to make complaint to the Mayor or the City Council of any violation of this section immediately upon obtaining knowledge thereof. He or she shall give bond in such sum as the City Council shall direct for the faithful performance of his or her duties.

1-4-5 Compensation

Each police officer shall receive such compensation as shall be fixed by resolution. Each member of the Police Department shall participate in the South Dakota Municipal Police Retirement System. The procedures and requirements of the System can be found in the office of the Chief of Police.

1-4-6 Reserve Police Force

The City of Mobridge may operate within the Police Department a reserve and/or auxiliary police force, the members of which shall be appointed by the Mayor upon the recommendation for the Chief.

Members of the reserve and/or auxiliary police force shall serve on a voluntary basis without pay and within the police power limits of the City.

The Chief of Police shall be commanding officer of the reserve and/or auxiliary police force and shall have control for the assignment, training, stationing and direction in work of the member thereof. Members of the reserve and/or auxiliary police force shall have all police powers, but shall perform only such duties as are assigned by the Chief.

The Chief shall, with the approval of the Mayor, prescribe rules and regulations for the conduct and control of the reserve and/or auxiliary police force.

CHAPTER 1- 5 FINANCIAL REGULATIONS

1-5-1 Annual Reports by Boards

Each of the boards appointed and acting for the City in the administration of the City, shall make an annual report of the receipts, disbursements and activities to the Council as soon as practicable after the close of the fiscal year. The report shall be filed with the City Finance Officer.

1-5-2 Contracts by Member for the Council

No officer or member of the Council shall enter into any contract, make any purchase or create any indebtedness against the City in excess of \$500.00 without first having submitted the matter of incurring such indebtedness or making such contract to the Council or having received authority of such Council thereof.

1-5-3 Sale of Personal Property

Whenever the city deems it for the best interests of the City, that personal property belonging to the City be sold, which said property has been abandoned or is 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 Council.

If the property is appraised at a value of more than \$500.00, notice of 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 and the time and place where bids will be received by the Council for said sale; and the Council may at such time sell said personal property to the highest bidder therefore or may in its discretion reject any and/or all bids.

1-5-4 Claims

All claims against the City of Mobridge shall be in writing and upon forms approved by the City Finance Officer and in such form as required by statute of the State of South Dakota. Prior to passage or approval by the Council, claims shall bear the approval of the council persons or person in charge of the department for which such services or supplies are furnished.

1-5-5 Funds

The City Finance Officer shall keep full, true and just accounts of all financial affairs of the City and shall keep such accounts and furnish in such form and in such manner from time to time as is required by the State of South Dakota.

1-5-6 Supplies

The City Finance Officer or Department Supervisor shall purchase all supplies, shall have charge thereof and shall make all supplies therefrom; provided no purchase involving an expenditure of more than \$750.00 shall be made without the consent of the Mayor or proper council persons of the City Council being first obtained. Emergency repairs of more than \$750.00 are to be made with the consent of two council persons or,

the Mayor and one council person. All materials and supplies shall, when received, be checked over by the officer or agent receiving the same, and a bill thereof, showing the name of the creditor and each article with the price thereof shall immediately be filed with the City 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.

CHAPTER 1- 6 PLAN COMMISSION

1-6-1 General

The City of Mobridge shall continue to have a City Plan Commission for the City and for the land within three miles of its corporate limits and not located within any other municipality.

1-6-2 Membership of Plan Commission

The City Plan Commission shall consist of five members appointed by the Mayor subject to the approval of the City Council. The members of this Plan Commission shall be resident electors of the City and qualified by knowledge or experience to act in matters pertaining to the development and administration of a City Plan.

1-6-3 Terms of Members

The term of each member of the Plan Commission shall be for two years, except that when such Plan Commission is first appointed, two members shall be appointed to serve a one year term and three members shall be appointed for a term of two years. Thereafter appointment of each member shall be for two years so that there will be an overlapping of tenures.

1-6-4 Vacancies

Any vacancy in a membership on the Plan Commission shall be filled for the unexpired term in the same manner as for appointment.

1-6-5 Removal for Cause

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

1-6-6 Organization

Upon appointment the Plan Commission shall be called together by the Mayor and shall organize by electing a Chairman from among its members for a term of one year with eligibility for re-election, and may fill such other of its offices as it may create in a manner prescribed by the rules of such Plan Commission.

1-6-7 Meeting, Rules, and Records

The Plan Commission shall hold meetings whenever the need arises. Subject to the approval of the City Council, it shall adopt such rules for transaction of its business and shall keep a record of its resolutions, transactions, findings and determinations which shall be a public record. Each member of the commission shall receive \$15.00 per meeting.

1-6-8 Annual Report

The Planning Commission shall upon the request of the mayor, make a report to the City Council of its proceedings with a statement of its receipts and disbursements and the progress of its work during the proceeding year.

1-6-9 Assistance

Subject to approval of the City Council, the Plan Commission may employ such technical, electrical, clerical and other assistance as may be deemed essential to carry on the work of the Plan Commission. Persons employed shall not be under the Civil Service except as otherwise determined by the City Council. In case of employment of a full time planning engineer by the City, his or her work shall be performed in cooperation with and under the direction of the Plan Commission. The compensation of all such employees shall be fixed by resolution of the Council.

1-6-10 Contracts

All contracts and agreements relating to the work of the Plan Commission and for services or materials required by it shall be made by the City Council in its discretion.

1-6-11 Master Plan

It shall be a function and duty of the Plan Commission to make and adopt a master plan for the physical development of the municipality, including any areas outside the boundary and within its planning jurisdiction which, in the Plan Commission's judgment bear relations to the planning of the municipality. The master plan, with the accompanying maps, plats, charts and descriptive and explanatory matter, may include among other things, the general location, character and extent of streets, bridges, viaducts, parks, parkways, waterways and water front developments, playgrounds, airports and other ways, grounds, places and spaces; the general location of public schools or buildings and other property; a zoning plan for the regulation of the height, area, bulk, location and use of private and public structures and premises, and of population density as may be provided by law; the general location and extent of public utilities and terminals, whether publicly or privately owned, for water, light, power, heat, sanitation, transportation, communication and other purposes; the acceptance, widening, removal, extension, relocation, narrowing, vacation, abandonment or change of use of any of the foregoing public ways, grounds, places, spaces, building, properties, utilities or terminals; the general location, character, layout of the replanning of blighted districts and slum area. The Plan Commission may from time to time amend, extend or add to the plan or carry any part of subject matter into greater detail.

1-6-12 General Purposes of the Plan

In the preparation of the master plan, the Plan Commission shall make careful and comprehensive surveys and studies of the existing conditions and probable future growth of the municipality and its environs. The plan shall be made with the general purpose of guiding and accomplishing a coordinate, adjusted and harmonious development of the municipality which will, in accordance with existing and future needs, best promote health, safety, morals, order, convenience, prosperity or the general welfare as well as efficiency and economy in the process of development.

1-6-13 Adoption of Master Plan

The Plan Commission may adopt the master plan as a whole by a single resolution, or, as the work of making the whole master plan progresses, may from time to time adopt a part or parts thereof, any such part to correspond generally with one or more of the functional subdivisions of the subject matter of the plan. Before adoption of the master plan or part thereof, the Commission shall hold at least one public hearing, notice of the time and place of which shall be given at least fifteen days in advance of publication in a newspaper having general circulation in the community. The adoption of the plan or any part, amendment or additions, shall be by resolution carried by the affirmative votes of not less than a majority of all the members of the Commission. The resolution shall refer expressly to the maps, descriptive matter and other matters intended by the Commission to form the whole or part of the plan, and the action taken shall be recorded on the adopted plan or part thereof, by the identifying signature of the Chairman and the secretary of the Commission, and a copy of the plan or part thereof shall be certified to the City Council.

1-6-14 Miscellaneous Powers of the Commission

The Plan Commission shall have all powers heretofore granted to the zoning commission of the municipality. The Plan Commission may make reports and recommendations relating to the plan and development of the municipality to public officials and agencies, public utility companies, civic, educational professional and other organizations and citizens. It may recommend to the executive or legislative officials of the municipality progress for public improvements and the financing thereof. All public officials shall, upon request furnish to the Plan Commission, within a reasonable time, such available information as it may require for its work. The Plan Commission, its members and employees, in the performance of its functions, may enter upon any land, make examinations and surveys and place and maintain necessary monuments and marks thereon. In general, the Plan Commission shall have all such powers as may be necessary to enable it to fulfill and perform its functions, promote municipal planning or carry out the purpose of this Ordinance.

1-6-15 Legal Status of the Master Plan

Whenever any such Plan Commission shall have adopted the master plan of the municipality or any part thereof, then and henceforth, no street, park or other public way, ground, place or space, no public building or structure, no public utility whether publicly or privately owned, if covered by the master plan or any adopted part thereof shall be constructed or authorized in the municipality or within its platting jurisdiction as defined in Section 1-6-18 until and unless the location and extent thereof shall have been submitted to and approved by the Plan Commission, provided that in case of disapproval, the Plan Commission shall communicate its reasons to the City Council, and the City Council, by vote of not less than two thirds of its entire membership, shall have the power to overrule such disapproval and, upon such overruling, the City Council or the appropriate board or officer shall have the power to proceed; provided, however, that the public way, ground, place, building, structure or utility be one the authorization or financing of which does not, under law or charter provision, governing the same fall within the province of the City Council or other body or official of the municipality, then the submission to the Plan Commission shall be by the Board or official having such jurisdiction, and the Plan Commission's disapproval may be overruled by said board by a

vote of not less than two-thirds of its entire membership or by said official. The vote of not less than two-third's of the entire membership or by acceptance, widening, removal, extension, relocation, narrowing, vacation, abandonment, change of use, acquisition of land for any street or other public way, ground, place, property, or structure shall be subject to similar submission and approval, and failure to approve may be similarly overruled. The failure of the Plan Commission to act within sixty-five days from and after the date of official submission to it shall be deemed approval, unless a longer period is granted by the City Council or other submitting official.

1-6-16 Building or Set-back Lines

From and after the time when the Plan Commission shall have adopted a master plan which included at least a major street plan or shall have progressed in its master planning to the stage of making and adoption of a major street plan, the Plan Commission may recommend and the City Council is hereby authorized and empowered by ordinance to establish, regulate and limit, and to change and amend, building or setback lines on some streets and to prohibit any new building being located within such building or setback lines. The City Council may also provide for a board of adjustment, or may authorize an existing zoning board of adjustment, to modify or vary the regulations in specific cases in order that unwarranted hardship, which constitutes an unreasonable deprivation of use as distinguished from the mere granting of a privilege, may be avoided. The regulations authorized by this section shall not be adopted. The regulations authorized by this section shall not be adopted, change or amended until a public hearing has been held thereon.

1-6-17 Platting Jurisdiction

From and after the time when the Plan Commission shall have adopted a master plan which included a major street plan or shall have progressed in its master planning to the state of the making and adoption of a major street plan, and shall file a certified copy of such major street plan in the office of the Register of Deeds of the County in which the municipality is located, no part of subdivision of land lying within the municipality, or of land within three miles of its corporate limits and not located in any other municipality, shall be filed or recorded until it shall be submitted to and a report and recommendations thereon made by said Plan Commission to the City Council and the City Council has approved the plat; provided, however, that in the case of such extra municipal land lying within three miles of any other city or cities having a Plan Commission, the jurisdiction of the Mobridge Plan Commission shall terminate at a boundary line equidistant from the respective corporate limits of the City of Mobridge and such other city or cities. Such plats shall after report and recommendations of the Plan Commission is made and files, be approved or disapproved by the City Council.

1-6-18 Subdivision Regulating

In exercising the duties granted to it by this charter, the Plan Commission shall recommend and the City Council shall by Ordinance adopt regulations governing the subdivisions of land within its jurisdiction as defined in Section 1-6-17. Such regulation may provide for the harmonious development of the municipalities and its environs; for the coordination of the master plan of the municipality; for adequate open spaces for traffic, recreation, light and air; and for a distribution of population and traffic which will tend to create conditions favorable to health, safety, convenience of prosperity. Such

regulations may include requirements as to of which and the manner in which the streets of the subdivision shall be graded and improved and water, sewer and other facilities shall be installed as a condition precedent to the approval of the plat. The regulations may provide for the tentative approval of the plat previous to such improvements and installations; but any such tentative approval shall not be entered on the plat. Such regulations may provide that in lieu of the completion of such work and installations previous to the final approval of a plat, the City Council may accept a bond, in an amount and with surety and conditions satisfactory to it, providing for and securing to the municipality the actual construction and installation of such improvements and utilities within a period specified by the City Council and expressed in the bond; and the municipality is put in an assured position to do said work and make said installations at the cost of the owners of the property within the subdivision. Before adoption of its subdivision regulations or any amendment thereof, a public hearing thereon shall be held by the City Council.

1-6-19 Approval of Plats

The plats shall be approved or disapproved within sixty days after the submission thereof; otherwise such plat have been deemed to have been approved and a certificate to that effect shall be issued by the City Council on demand; provided, however, that the applicant for the approval may waive this requirement and consent to the extension of such period. The ground of disapproval may waive this requirement and consent to the extension of such period. The ground of disapproval of any plat shall be stated upon the records of the City Council. Any plat submitted for approval shall contain the name and address of a person to whom notice of hearing may be sent; and no plat shall be acted upon by the City Council without offering a hearing thereon, notice of time and place of which shall be sent by mail to said address not less than five days before the date fixed thereof.

1-6-20 Improvements in Unapproved Streets

From and after the time when the plating jurisdiction of the municipality shall have attached by virtue of the adoption of a major street plan as provided in Section 1-6-18, the municipality or other public authority shall not accept, lay out, open, improve, grade or light any street or lay or authorize the laying of water mains, sewers, connections or other facilities or utilities in any street within the municipality unless such street shall have been accepted or opened, as or shall otherwise received the legal status of, a public street prior to the adoption of a master plan, or unless such street corresponds in its location and lines with a street shown on a subdivision plat made and adopted by said Plan Commission; provided however, that the City Council, or in the case of a street outside of the municipality, the governing body of such territory, may locate and construct or may accept any other street if the ordinance or other measure for such location and construction or for such acceptance be first submitted to said Plan Commission for its approval; and if disapproved by the Plan Commission, be passed not less than two-third's of the entire membership of the City Council or said governing body; and a street approved by the Plan Commission upon such submission, or constructed or accepted by said two-thirds vote after disapproval by the Plan Commission, shall have the status of an approved street as fully as though it had been originally shown on a subdivision plat approves by the Planning Commission.

1-6-21 New Buildings on Approved Streets

From and after the time when the platting jurisdiction of the municipality shall have attached by reason of the adoption of a major street plan as provided in Section 1-6-17, no building permit shall be issued for or no building shall be erected as provided in Section 1-6-17 unless the street giving access to the lot upon which said building is proposed to be placed shall be accepted or open as, or shall have otherwise received the legal status of, a public street prior to that time, unless such street corresponds in its location and lines with a street shown on a subdivision plat approved by said City Council or on a street plat made and adopted by said Plan Commission or with a street located and accepted by the City Council, or in case of territory outside the municipal corporation, by the governing body thereof, after submission to said Plan Commission and, in case of said Plan Commission's disapproval, by the favorable vote required in Section 1-6-20, and building erected in violation of this section shall be deemed an unlawful structure, and the municipality or other governing body may bring action to enjoin such erection or cause it to be vacated or removed.

TITLE 2- BOUNDARIES, WARDS AND VOTING PRECINCTS

Chapter 2-1 - Boundaries

Chapter 2-2 - Wards

Chapter 2-3 - Voting Precincts

CHAPTER 2-1 BOUNDARIES

2-1-1 Boundaries

The corporate limits of the city of Mobridge are hereby declared to be those which are legally established by law and Ordinance of the City of Mobridge or which may hereinafter be legally established by Ordinance or resolution of the governing body, and as shown on the map hereby incorporated in this Ordinance by reference and adopted as the official map showing the boundaries and limits of the City.

CHAPTER 2-2 WARDS

2-2-1 Wards The City of Mobridge is divided into three Wards as follows, to-wit:

First Ward: All that territory within the corporate limits and lying north of the center line of Ninth Street East from the center line of Fourth Avenue East thence west to the center line of First Avenue West, thence north to the center line of Tenth Street East, thence west to the to the City limits and all that territory within the corporate limits and lying west of the center line of Fourth Avenue East commencing at Ninth Street East thence north to the City Limits, shall be and constitute the First Ward of said City.

Second Ward: All that territory within the corporate limits lying south and west of the center line of Ninth Street East commencing at the Center Line of Main Street, thence west to the center line of First Avenue West, thence north to the center line of Tenth Street West, thence East to the City Limits and all that territory within the corporate limits lying west of the Center line of Main Street commencing at Ninth Street thence South to the City Limits shall be and constitute the Second Ward of said City.

Third Ward: All that territory lying within the corporate limits lying south and east of the center line of Fourth Avenue East commencing at the North City Limits thence South To the Center Line of Ninth Street East thence West to the Center Line of Main Street thence South to the City Limits shall be and constitute the Third Ward of said City.

CHAPTER 2-3 VOTING PRECINCTS

2-3-1 Voting Precincts

The City of Mobridge in all regular and special municipal elections is hereby divided into three election precincts which shall encompass the same boundaries as the boundaries of each of the three Wards as defined in Chapter 2-2.

County Precincts No. 17, 18, 19, 20 shall be included in the boundaries of the First Ward of City of Mobridge.

County Precinct No. 14, 15, 16 shall be included in the boundaries of the Second Ward of City of Mobridge.

County Precincts No. 6, 9, 10, 17, 18 shall be included in the boundaries of the Third Ward of City of Mobridge.

That in the resolution for each annual municipal election or any special election the governing body shall fix and determine the polling place, or places in each municipal precinct, the location of which shall be stated in the notice of election; and in such resolution shall fix the number of judges and clerks of election for each voting precinct who shall be appointed by the governing body. Providing, however, that not less than two judges and one clerk nor more than three judges and two clerks shall be appointed for each voting precinct.

All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed. This ordinance shall be in full force and effect from and after its approval, adoption and publication as provided by law.

TITLE 3 – BUILDING REGULATIONS

CHAPTER 3-1 - BUILDING CODE

CHAPTER 3-2 - DESIGN - BUILD PROCUREMENT

CHAPTER 3-3 - UNIFORM BUILDING CODE

CHAPTER 3-1 BUILDING CODE

3-1-1 General

The provisions of the adopted building code of Mobridge as amended shall be controlling in the construction of all buildings and other structures within the corporate limits of the City. The building permit fee shall be \$10.00 for structures that will cost \$1.00 to \$1,000.00 to complete; and for any structure costing more than \$1,000.00, the additional cost will be \$1.00 per \$1,000.00 of structure or improvement cost.

That all other provisions of said Section 303 (a) of the Uniform Building Code and amendments shall remain in full force and effect, including the provision that where work for which a permit is required by this Code is started and proceeded with prior to obtaining said permit, the fee specified by the resolution shall be doubled, but the payment of such double fee shall not relieve any persons from fully complying with the requirements of this Code and the execution of the work, nor from any other penalties prescribed herein.

The City Council shall have power to grant exceptions and variances from the Uniform Building Code, Uniform Fire Code and Life Safety Code as adopted when the application for permit is for alteration, remodeling, repairing, or building additions to existing structures or when strict compliance will work an extreme hardship on the applicant. Power to approve an exception or variance shall be upon public hearing prior to approval. Public notice of said hearing shall be given to at least one publication in the official city newspaper not less than one week prior to said hearing and by mailing a copy of said notice to the record owners of all property, lying within 300 feet if within the city limits, or one half mile if within the three mile jurisdiction, not less than one week prior to the hearing. Such notice shall state the variance requested, and the date, time and place the hearing will be held.

Wherever the word "Municipality" is used in the building code, it shall be held to mean the City of Mobridge.

Wherever the term "Corporation Counsel" is used in the building code, it shall be held to mean the Attorney for the City of Mobridge.

Nothing in this chapter or in the code hereby adopted shall be construed to affect any suit or proceeding now pending any court, or any rights acquired, or liability incurred, nor any cause or causes of action accrued or existing under any act or ordinance repealed hereby. Nor shall any right or remedy of any character be lost, impaired or affected by this chapter.

The invalidity of any section or provision of this chapter or of the code hereby adopted shall not invalidate other sections or provisions thereof.

Any Ordinance or parts thereof in force at the time that this Ordinance shall take effect and inconsistent herewith, are hereby repealed.

3-1-2 Zoning Officer

The Zoning Officer shall be appointed by the City Council. He or she shall be an official or employee of the City, who shall assume the duties of building official in addition to his or her other duties. His or her appointment shall continue during good behavior and satisfactory service. He or she shall be subject to provisions set forth in the city employee manual.

During temporary absence or disability of the Building and Zoning Official, the appointing authority shall designate an acting Building and Zoning Official.

3-1-3 Duties of a Zoning Officer

It shall be the duty of the Zoning Officer to enforce all laws relating to the zoning construction, alteration, removal, and demolition of all buildings and structures, including but not limited to fences and sidewalks.

3-1-4 Application for Permits

Application for all permits required by the building code shall be first submitted to the Zoning Officer, who shall endorse thereon his or her approval or disapproval thereof and shall submit such application to the City Council for final action, and their action in approving or disapproving any such building application shall be final.

3-1-5 Right of Entry

The Zoning Officer, in the discharge of his or her official duties, and upon proper identification, shall have authority to enter any building, structure or premises at any reasonable time.

3-1-6 Fire Limits Construction Established

The fire limits of the City embrace all of the area within the business, light industrial and heavy industrial districts as defined by the Zoning Ordinance of the City of Mobridge, South Dakota, No. 486, as amended, and as may be further amended from time to time.

3-2 DESIGN-BUILD PROCUREMENT

3-2-1 Purpose

Pursuant to SDCL Title 5, effective July 1, 1998, the following procedures are established for the solicitation and award of design-build contracts. (1999 ORD 756)

3-2-2 Definitions

For purposes of this procedure the definitions in SDCL Title 5, and the following definitions apply:

(1) "City" means the City of Mobridge

(2) "Firm" means any individual, firm, partnership, corporation, association, joint venture or other legal entity permitted by law to practice engineering, architecture and construction contracting in the City of Mobridge.

(3) "Project" means the project described in the public announcement. (1999 ORD 756)

3-2-3 Minimum Qualification Requirements for Firms Providing Design-Building Services

The design-builder shall be duly registered with the South Dakota Secretary of State and the Department of Revenue and, where required by state or federal law, shall be able to provide design or construction services by duly licensed or registered individuals. (1999 ORD 756)

3-2-4 Utilization of Design-Build

The determination to utilize design-build shall follow specifications set forth in SDCL 5-18-26(2). (1999 ORD 756)

3-2-5 Public Announcement Procedures

Except in Emergency situations, the City shall publish an announcement in the city's official newspaper in accordance with SDCL 5-18-3, setting forth a general description of the project requiring design-build services and defining the time frame and procedures for interested qualified firms to apply for consideration. The public announcement shall further state whether design-builders will be prequalified for the project in accordance with SDCL 5-18-37. (1999ORD756)

3-2-6 Technical Review Committee

There shall be a Technical Review Committee comprised of the Mayor, Zoning Officer, Water and Waste Water Superintendent and the Chairperson of the Major Organizational Unit sponsoring the project.

The Technical Review committee shall determine the most qualified proposers as provided in Section 3-2-7 and rate and score Qualitative Proposals as provided in Section 3-2-9. (1999ORD756)

3-2-7 Prequalification of Design-Builders

(1) The City may prequalify design-builders.

(2) The City may issue a Request for Qualifications (“RFQ”) by advertisement in accordance with SDCL 5-18-3. The RFQ shall contain a general description of the project; a description of the areas of qualification requirement for performance of the work, such as experience, management resources and financial capability; the basis upon which the most qualified offerors will be determined; and any other requirements for the submittal of statements of qualifications. Firms desiring to submit proposals on the design-builder project shall submit a statement of qualifications setting forth the qualifications of the entities involved in the firm and providing any other information required by the RFQ.

(3) The Technical Review Committee shall determine the relative ability of each firm to perform the services required for each project. Determination of ability shall be based upon experience with comparable projects; financial and bonding capacity; managerial resources; the abilities of the professional personnel; past performance for the City; capacity to meet time and budget requirements; knowledge of local or regional conditions; recent, current and project workload of the firms; and the ability of the design and construction teams to complete the work in a timely and satisfactory manner.

(4) The Technical Review Committee shall select not more than five firms deemed to be most highly qualified to perform the required services, after considering the factors in (2) and (3) above. An RFQ shall be issued to those firms selected. (1999ORD756)

3-2-8 Performance Criteria Package and Request for Proposals

(1) A performance criteria package shall be prepared by the City, using a registered architect or engineer either on staff of the City or selected in accordance with procedures employed for selecting design firms. When a project is exempted from the provisions of SDCL 36-18, the criteria developer need not be registered. The design criteria package may include, but not be limited to, site survey; material quality standards; programmatic space needs; conceptual design criteria; design and construction schedules; site development requirements; stipulation of responsibilities for permits and connections to utilities, storm water and roads; stipulation of responsibility for meeting environmental regulations and growth management requirements; soil borings and geotechnical information, performance specifications; and a statement of required compliance with codes and general technical specifications.

(2) The purpose of the performance criteria package is to furnish sufficient information for firms to prepare qualitative proposals and price proposals. The firm to whom the design-build contract is awarded shall develop a detailed project design based on the criteria in the performance criteria package and for construction of the facility in compliance with the performance criteria package.

(3) The Request for Proposals ("RFP") shall consist of: the performance criteria package, instructions to bidders, bid proposal forms, provisions for contracts, general and special conditions, and basis for evaluation of proposals. (1999 ORD 756)

3-2-9 Competitive Selection of Design-Build Services

(1) A Qualitative and a Price Proposal shall be submitted by each firm submitting proposals. In the case of prequalification such proposals shall only be accepted from prequalified firms. Price proposals shall include one lump sum cost for all design, and construction of the proposed project, preliminary design documents and other data requested in response to the RFP. Proposals shall be segmented into two packages:

(a) Qualitative Proposal. A qualitative proposal shall include preliminary design drawings, outline specifications, technical reports, calculations, permit requirements, management plan, schedule and other data requested in response to the RFP.

(b) Price Proposal. The price proposal shall be submitted in a separate sealed package. The package shall indicate clearly that it is the price proposal and shall identify clearly the firm's name, project description, or any other information required by submission of proposals. The price proposal shall be secured until the time provided in Section 10, paragraph (1).

(2) The Technical Review Committee shall review the design concepts, preliminary designs and technical data proposed by each firm and shall establish a rating for each firm's proposal based upon criteria to be established by the Technical Review Committee for the project.

(3) The Technical Review Committee then will total and submit the qualitative scores for each firm to the Finance Officer. The maximum qualitative score is 1.0. (1999 ORD 756)

3-2-10 Selection and Award for Design-Build Services

(1) The Finance Officer shall set a date for publicly opening the price proposals, and shall notify all firms submitting price proposals at least seven days prior to the opening date. The notification shall include the date, time and place of the opening of price proposals and date for award of the project.

(2) The Finance Officer shall publicly open the sealed price proposals and divide each firm's proposed price by the qualitative score given by the Technical Review Committee to obtain an "adjusted price." The firm whose adjusted price is lowest.

(3) In lieu of requiring Qualitative and Price Proposals, the City may establish a fixed dollar budget for the design-build project in the RFP, and require only Qualitative Proposals, price being fixed for all proposers. In this approach, award is made to the proposal receiving the highest qualitative score.

(4) Unless all proposals are rejected, the Finance Officer will recommend approval of an award to the firm with the lowest adjusted price. The City shall give written notice to the design-builder who submitted the accepted proposal. All other design-builders shall be informed in writing that their proposals were not accepted. The City reserves the right to reject all proposals.

(5) The City shall enter into a contract with the firm selected. At the time of the award, the City may negotiate minor changes for the purpose of clarifying the design criteria and work to be done, provided that the negotiated changes do not affect the ranking of the proposals based on their adjusted scores. (1999ORD756)

3-2-11 Protests

Any proposer may protest an award in accordance with the procedures in Executive Order 98-13 (Bid Protest Procedures). (1999ORD756)

3-2-12 Confidential Information

The City will make reasonable efforts to maintain the secrecy and confidentiality of any proposal and all information contained in any proposal may not disclose any of any proposal and all information contained in a proposal to the design/Builder's competitors. To the extent permitted by the provisions of SDCL Chapter 1-25, the City will not disclose confidential and proprietary information contained in any proposal to the public until such time as the City takes final action to accept a proposal. (1999ORD756)

3-2-13 Emergency Purchases

A design/build contract may be awarded in an emergency without advertising pursuant to SDCL 5-18. (1999ORD756)

CHAPTER 3-3 UNIFORM BUILDING CODE; UNIFORM BUILDING CODE STANDARDS; and UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS

3-3-1 GENERAL

Section 1: That certain documents are on file and are open for inspection of the public in the Office of the City Finance Officer of the City of Mobridge, being marked and designated as:

Uniform Building Code, 1997 Edition, published by the International Conference of Building Officials, including the generic fire-resistive assemblies listed in the fire resistance Design Manual, Twelfth Edition, dated August 1988, published by Gypsum association as referenced in tables Nos.43-A, 43-B and 43-C (also reference Appendix Chapter 35, if adopted) of the specified Uniform Building Code, including Appendix Chapters, and all amendments thereto.

Uniform Building Code Standards, 1997 Edition, published by the International Conference of Building Officials, including (i) Structural Welding Code- Reinforcing Steel, ANSI/AWS D1.4-79 (U.B.C. Standard No. 26-8); (ii) Structural Welding Code-Steel, ANSI/AWS D1.1-90 (U.B.C. Standard No. 27-6); (iii) Structural Welding Code - Sheet Steel, ANSI/AWS D1.3-81 (U.B.C. Standard No. 27-13) published by the American Welding Society, Inc.; and (iv) Standard For Buildings and Facilities-Providing Accessibility and Usability for Physically Handicapped People, A117.1-1986 (U.B.C. Standard No. 31-1) published by the American National Standards Institute, as modified or amended in the Uniform Building Code Standards referenced herein.

Uniform Building Code for the Abatement of Dangerous Buildings, 1997 Edition, published by the International Conference of Building Officials, and all amendments thereto be, and the same are hereby adopted as the Code of the City of Mobridge for regulating the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings or structures in the City of Mobridge providing for issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, conditions and terms of such *Uniform Building Code, 1997 Edition*, and *Uniform Building Code of Standards, 1997 Edition*, published by the International Conference of Building Officials, and the secondary publications referenced above, all of which are on file in the Office of the City Finance Officer of the City of Mobridge, are hereby referred to, adopted and made a part hereof as if fully set out in this ordinance. (2001ORD780) (1999ORD760)

Section 2: It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building or structure or cause or permit the same to be done in violation of this code.

Section 3: That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance, and each section, subsection, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clause and phrases be declared unconstitutional.

Section 4: That the City Finance Officer of the City of Mobridge is hereby ordered and directed to cause this ordinance to be published.

Section 5: That this ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall take effect and be in full force and effect from and after the date of its final passage and adoption.
(1999ORD760)

TITLE 4- FIRE REGULATIONS

CHAPTER 4-1 – GENERAL

CHAPTER 4-2 – FIRE DEPARTMENT CHARGES

CHAPTER 4-1 GENERAL

4-1-1 Enforcement

The official adopted Fire Code of the City shall be enforced by the Chief of the Fire Department.

4-1-2 Establishment of Limits of Districts in which Storage of Flammable Liquids in Outside Above ground Tanks and Bulk Storage Of Liquefied Petroleum Cases is to be Restricted

The limits referred to in Section 804a of the Code in which storage of flammable liquids in outside above ground tanks is prohibited, and the limits referred to in Section 1104 of the Code, in which bulk storage of liquefied petroleum gas is restricted, are hereby established as follows: the fire limits as established by Section 3-1-6 of this Ordinance.

4-1-3 Modifications

The Chief of the Fire Department shall have power to modify any of the provisions of the Code upon application in writing by the owner or lessee or his or her duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the Code, provided that the spirit of the Code shall be observed, public safety secured and substantial justice done. The particulars of such modifications when granted or allowed and the decision of the Chief of the Fire Department thereon shall be entered upon when granted or allowed and the decision of the Chief of the Fire Department thereon shall be entered upon the records of the Department and a signed copy shall be furnished by the applicant.

4-1-4 Appeals

Wherever the Chief of the Fire Department shall disapprove an application or refuse to grant a license or permit applied for, or when it is claimed that the provisions of the Code do not apply or that the true intent and meaning of the Code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the Chief of the Fire Department to the City Council within thirty days from the date of the decision of the appeal.

4-1-5 Controlled Burns

No person, business, or entity shall burn any material or have a controlled burn within the city limits of Mobridge, or its surrounding three-mile jurisdiction, without first having completed a permit and obtaining the consent of the fire chief. This section does not apply to grills, barbecue grills, licensed outdoor incinerators, stoves or fireplaces. If a permit is denied, the applicant can appear before the city council at a public hearing

which shall be advertised for two consecutive weeks, and shall take place at a regularly schedule council meeting, where the council will either approve or deny the application. (2006ORD835)

4-1-6 Failure to Secure Permit

Failure to secure a permit shall be subject to the general penalties provision listed in the general penalties chapter.

4-1-7 Obstruction of a Fire Hydrant

It shall be unlawful for anyone to obstruct a fire hydrant and the volunteer firemen of the City of Mobridge are authorized to remove the obstruction at owner's expense.

No person shall obstruct the use of any fire hydrant or leave, or place any material in front thereof or within three feet from either side thereof. Any and all material found as an obstruction as aforesaid may be forthwith removed by any member of the fire department, water department or police department at the risk or the cost and expense of the owner or claimant of the property. (2006 ORD 836)

CHAPTER 4-2 FIRE DEPARTMENT CHARGES

4-2-1: Purpose

The within ordinance is adopted for the purpose of providing financial assistance to the city in the operation of a fire department from those receiving direct benefits from the fire protection service. It is the further purpose of the within ordinance to provide for full funding of the fire department operation which remains, in part, an at-large governmental expense based upon the general benefits derived by all property owners within the city from the existence of a city fire department and its availability to extinguish fires within the city and perform other emergency services. (2005ORD811)

4-2-2: Charges

The City shall set by resolution, the charges due and payable to the city from a recipient of any of the following enumerated services from the city fire department:

Grass fire; Rubbish fire; Automobile fire; Truck fire; House fire; Fire in a commercial, industrial or manufacturing establishment; Fire in a multiple-family building; hotel or motel fire; aircraft fire; train fire; Emergency rescue service; Resuscitator service; and Other services not specifically enumerated. (2005ORD811)

4-2-3: Time for Payment for Run

All of the foregoing charges shall be due and payable within 30 days from the date the service is rendered and any default of payment shall be collectible through legal proceedings in any court of competent jurisdiction as a matured debt. (2005ORD811)

4-2-4: Exemptions

The following properties and services shall be exempt from the foregoing charges:

- A. False alarms, if there are three or less from one location during the year.
- B. Fire involving city buildings, grounds and/or property.
- C. Fire service performed outside the jurisdiction of the city under a mutual aid contract. (2005ORD811)

4-2-5: Collection of Charges

The city may proceed in court by suit to collect any monies remaining unpaid and shall have any and all other remedies provided by law for the collection of said charges. (2005ORD811)

4-2-6: Non-Exclusive Charge

The foregoing rates and charges shall not be exclusive of the charges that may be made by the city for the costs and expenses of maintaining a fire department, but shall only be supplemental thereto. Charges may additionally be collected by the city through general taxation after a vote of the electorate approving the same or by a special assessment established under South Dakota law pertinent thereto.

General fund appropriations may also be made to cover such additional costs and expenses. (2005ORD811)

4-2-7: Multiple Property Protection

When a particular service rendered by the city fire department directly benefits more than one person or property, the owner of each property so benefited and each person so benefited where property protection is not involved shall be liable for the payment of the full charge for such service hereinbefore outlined. The interpretation and application of the within section is hereby delegated to the city fire chief subject only to appeal, within the time limits for payment, to the city council and shall be administered so that charges shall only be collected from the recipients of the service. (2005ORD811)

TITLE 5 - HEALTH CODE

CHAPTER 5-1 - ESTABLISHMENT OF HEALTH OFFICER

CHAPTER 5-2 - CONTAGIOUS DISEASES

CHAPTER 5-3 - DUMPING GROUNDS

CHAPTER 5-4 - GARBAGE

CHAPTER 5-5 - NUISANCES

CHAPTER 5-6 - RODENT ERADICATION

CHAPTER 5-7 - RESTAURANTS

CHAPTER 5-8 - SLAUGHTER HOUSES AND MEAT MARKETS

CHAPTER 5-9 - CATS

CHAPTER 5-1 - ESTABLISHMENT OF HEALTH OFFICER

5-1-1 Appointment

There shall be appointed at the time of the appointment of other municipal officers, a Health Officer who shall be an actively practicing physician employed in the City of Mobridge.

5-1-2 Powers

The Health Officer, in conjunction with the police officers of the City, shall exercise a general supervision over the health of the City and shall have general and direct supervision of the enforcement of the provisions of this title.

CHAPTER 5-2 CONTAGIOUS DISEASES

5-2-1 Power

The Health Officer, or Chief of Police, shall have the power and authority to enter any premises in the City in search of contagious diseases or nuisances. He/She shall have the power and authority to quarantine any premises, and to remove any persons suffering from, suspected of suffering from, or who has been exposed to said disease or nuisance. Said officer may place a sign denying general public access and/of denying affected persons to leave the premises per SDCL 34-22-12 and ARSD 44:20.

Every physician practicing within the city limits of Mobridge shall report Class I diseases or nuisance immediately to the Health Officer. The Health Officer shall notify the State Health Lab within 24 hours with the name, age, sex, and address of such case, the name of the disease, and the source of contamination, if known. Upon termination of said disease, the Health Officer shall also give the state notification. Class II diseases need to be reported within three days, using the same criteria. An updated list of classes of diseases shall be on file at local medical facilities.

5-2-2 Penalty

Any person who violates, disobeys, omits, neglects or refuses to comply with, or who resists the enforcement of any of the provisions of this chapter; or who refuses or neglects to obey any of the rules, orders or sanitary regulations of the Health Officer, or

who omits, neglects or refuses to comply with any order or special regulation of the Health Officer, or who resists such officer, shall be subject to the penalty as provided in the Chapter of General Penalties of this Ordinance.

CHAPTER 5-3 DUMPING GROUNDS

5-3-1 Site of Landfill

The governing body has contracted with Walworth County to provide a place or places known as garbage collection sites or sanitary landfill for the deposit of all garbage, rubbish, metal debris, tires, appliances, ashes, grass cuttings, tree materials, and other waste and discarded materials collected or accumulated in the City. Such material shall be taken to and placed within the landfill in accordance with the rules and regulations promulgated by the Walworth County Commissioners.

5-3-2 Rubble Site

A rubble site shall be setup by the City for the acceptance of trees and tree branches, subject to regulations as set by the Council in regard to fees and ties of operation.

5-3-3 Refuse Hauling

Every domestic family unit and multiple dwelling shall have their normal quantity of refuse hauled by the garbage contractor. Businesses may contract with the city contractor or shall make other provisions to, in a timely manner, have their refuse hauled. Refuse derived from dismantling or remodeling homes or other building, new construction, including curb and sidewalks, fire damages, barn wastes, excavated earth or sand from contractors' projects or individual construction, shall be disposed of by the person, persons, firm or contractor responsible for such refuse. Refuse shall not include dead carcasses, carrion, entrails and bones of slaughtered animals, filth from any privy box or from a cesspool.

Properly cut tree debris, scrap lumber and metal debris, tires, appliances, mattresses, and other furniture may be collected by the City when authorized and directed by the governing body during designated clean-up periods. Some material may be subject to a fee to City Hall prior to collection. Citizen haulers shall be permitted to haul tree branches, tree trunks and other waste and rubbish to the collection site or sanitary landfill which they shall deposit at a designated location as directed by the County Sanitary Landfill Supervisor, except that car bodies, machinery and large pieces of scrap metal shall not be deposited or permitted at the garbage collection site or sanitary landfill area at any time unless authorized by the Walworth County Council. All applicable fees are the responsibility of the citizen hauler.

5-3-4 Refuse Deposit

No garbage, rubbish or waste material collected in the city shall be deposited at any location except such area or sites that are so designated or contracted for by the governing body.

5-3-5 Regulation Enforcement

The operation and enforcement of this Ordinance shall be vested in the City Council, Chief of Police and Health Officer. The City Council and Health Officer shall have the right to promulgate rules and regulations for the carrying out of the intents and purposes of this Ordinance, subject to the approval of the governing body. Any such rules and regulations so adopted shall be filed with City Finance Officer, who shall keep the same available for public inspection and published once prior to the effective date thereof.

5-3-6 Violations

Any person, persons, firms or corporations violating any of the provisions of this Ordinance or violating any rule or regulation promulgated by the City Council and Zoning Officer and approved by the governing body and duly published shall upon conviction thereof, be deemed guilty of a misdemeanor and punished pursuant to the penalties set forth under the General Penalties ordinance

Each day that a violation of the Ordinance, or any rule or regulation promulgated thereunder, shall be considered a separate offense, punishable upon conviction as stated.

Chapter 5-4, Garbage and Ashes, of the Revised Ordinances of the City of Mobridge, South Dakota, 1998 Ordinance in Revision No. 746 is REPEALED.

5 – 4A GARBAGE

5-4A-1 DEFINITIONS.

- A. The term “refuse” or “solid waste” as used in this chapter shall be interpreted to mean kitchen waste, an accumulation of animal and vegetable matter which attends the preparation, cooking, and eating of food; cans, bottles, paper, other waste materials ordinarily originating in a household, but excluding yard waste, tree limbs, industrial byproducts, building materials, metal objects more than 12 inches in length, ashes, dirt, rock, sand, brick, tile or concrete, asphalt, sewage and body wastes, and any object that will not fit into the waste container hereinafter defined.
- B. The term “owner” shall mean the actual owner of the building or real estate, either individual, partnership, or corporation, the agent of the owner in charge of such property, or the person to whom any rental or such property is paid.
- C. The term “occupant” shall mean the individual, the partnership, or the corporation that has the use of the building or real estate, either residence or commercial, or a part or a portion thereof, whether the actual owner, tenant, or sub-tenant. In the case of vacant buildings, residence or commercial, or any vacant portion of the building or real estate, the owner, agent or custodian shall have responsibility or an “occupant” of said property.

In the case of a multiple family building or residence, each family shall have the responsibility of the “occupant” of said building.

- D. The term “business building” shall mean any structure, public or private, that is adapted for occupancy, for transaction of business, for rendering professional services, for amusement, the display, sale or storage of foods, wares, or merchandise, or for the performance of work or labor, including – but not being limited in its application to hotels, office buildings, public buildings, stores, theaters, markets, restaurants, grain elevators, warehouses, work shops, factories, and all out-buildings, sheds, barns, and other structures and premises used for business purposes.
- E. The term “residence building” shall mean any structure that is used for the housing and living quarters.
- F. The term “yard waste” shall mean organic materials that can be composted and shall be limited to yard and garden materials such as grass, leaves, weeds, and flower and vegetable garden waste. (2003)

5-4A-2 COLLECTION-RESIDENTIAL SERVICE.

A. General

All garbage, rubbish, rubble, and refuse created, produced, or accumulated in or about a dwelling house, residence building or place of human habitation in the City limits of the

City of Mobridge shall be removed from the premises at least once each week. The city may require a greater number of collections per week.

The city shall contract for lowest bid to a solid waste hauler for a period of three (3) years. The city shall set the billing rate by resolution and bill all residents on their utility statements. No billing will be done by the private hauler for residential service. (2005ORD810) (2003ORD798)

B. Property Owner's Responsibility

The owner or person in control of any private property, residence building or business building shall at all times maintain the premises free of commercial waste, household waste, garbage, infectious waste, industrial waste, rubble or yard waste except that used for composting. (2003)

C. Customer Containers and Location

1. No person or occupant shall deposit any refuse for collection by a licensed garbage collector or hauler, except in a suitable watertight metal or plastic container, with a tightly fitted cover or in a garbage dumpster/tote which may be provided. All paper, pasteboard boxes, building material waste, and similar rubbish and waste shall be deposited for collection in a box or bin provided with a lid which shall be kept closed.
2. The owner or manager of any dwelling who rents, leases, or lets dwelling unit(s) for human habitation shall provide in a location accessible to all dwelling units at least one 30-gallon receptacle for each dwelling unit, or receptacles with a capacity sufficient to prevent the overflow of garbage and rubbish from occurring, and receptacles for recycling, into which garbage, rubbish, and recyclable materials from the dwelling units may be emptied between days of collection. The owner or manager of the units shall subscribe to and pay or provide for garbage removal and recyclable service as required by ordinance.
3. Garbage containers shall be kept on the premises adjacent to an alley bordering on the premises so they are accessible from the alley adjoining the premises. Where no alley is available, they may be placed on the boulevard, driveway or parkway adjoining the premises on the day of garbage collection. If alleys become impassable, the City may order that residents place the containers in the boulevard, driveway or parkway adjacent to the premises on the day of garbage collection until such time as the alleys again become passable. (2003)

5-4A-3 COLLECTION-COMMERCIAL/BUSINESS ESTABLISHMENTS.

All commercial establishments, including but not limited to hotels, motels, food or beverage service establishments, and retail, wholesale, service, industrial and warehousing establishments, shall arrange for disposal of refuse generated by or accruing to such establishment by a licensed commercial garbage collector or hauler. This will not include churches or apartment buildings. (2003)

5-4A-4 COMMERCIAL GARBAGE COLLECTORS OR HAULERS.

A. General

It is unlawful for contract or commercial collectors or haulers to use the streets for the collection, removal or disposal of any receivable solid waste and yard waste without first having obtained a license to perform such services from the finance officer and upon approval by the City Council. As a condition to the granting of any said license, all commercial collectors and haulers shall agree to abide by all city ordinances or landfill regulations involving the collection or depositing of any receivable solid waste and yard waste. In the event any commercial garbage collector or hauler fails to abide by these said ordinances or regulations the City of Moberg reserves the right to terminate said license. This requirement does not apply to building contractors removing and disposing of receivable solid waste incidental to a construction contract, nor to any firm or individual who, for a fee engages in the removal of receivable solid waste for disposal for fewer than two days in any calendar year. (2003)

B. License Application

Application for license shall be filed and license fee paid in full at the office of the finance officer five (5) days prior to any consideration and approval by the council. The license fee shall be three hundred sixty five dollars (\$365.00) per year, without regard to the time of year of issuance, for commercial collectors or contract haulers collecting and transporting receivable solid waste including any one of the following types of material: garbage, household waste, industrial waste, and commercial waste. Such license shall also entitle holder to collect and transport yard waste and large trees and limbs. All licenses expire December 31 in the year they are issued. The license plate or placard issued shall be displayed on each such vehicle at all times. Licenses cannot be transferred. (2003)

C. Liability Insurance

Each license applicant shall, at the time of the submission of the license application, provide written verification to the city that the applicant met the financial liability requirement of state law for liability insurance coverage for the vehicles used in the collector's or hauler's business. (2003)

D. License Revocation, Suspension or Denial

The City Council may revoke, suspend, refuse to issue or transfer any license under this article to any licensee or applicant who fails to comply with the requirements of this article or engages in unfair business practices. Any license issued under the provision of this chapter may be suspended or revoked by the City Council for violation of any applicable provision of this chapter, any other City ordinance rule or regulation or provision of state or federal law by such licensee, its agent or employee. The council shall give fifteen days' written notice prior to hearing. (2003)

E. Rules and Regulations

The City Council is hereby empowered to promulgate and from time to time change any and all rules and regulations necessary for the conduct of garbage collectors and haulers.

5-4A-5 DUTY OF COLLECTORS AND HAULERS

Licensed collectors and haulers shall obey all the ordinances and all the rules and regulations of the City of Mobridge or its designated officer and report to the police department any violation of this chapter which may come to their notice. All licensed collectors and haulers may provide a subscription service for each customer. All charges for the collection of yard waste shall be made separate and distinct from any basic charges for all other collection services of receivable solid waste. Any violation of this article or other rules and regulations that may be made from time to time by the City of Mobridge, or any nonpayment of the fees provided by this article will result in the suspension or revocation of the license to haul. (2003)

5-4A-6 COLLECTION

Every licensed commercial collector or hauler shall collect receivable solid waste from the residence buildings at least once in each week and from the business buildings at least three times in each week. The collection for the business shall be made as early in the day as is convenient. When there is more than two inches of snow, the Street Superintendent may determine, when the residential and business alleys are passable for purposes of garbage collection. Commercial garbage collectors and haulers shall be under no obligation to remove receivable solid waste unless the payments for the removal of such receivable solid waste, as provided by arrangement with the customer, shall have been made. Every licensed commercial collector or hauler may, in addition to the regular collection, collect all yard waste. (2003)

5-4A-7 GARBAGE COLLECTION/HAULING VEHICLES

- A. Licensed collectors and haulers of garbage and/or commercial solid waste and industrial waste shall provide themselves with suitable vehicles which shall be all metal, water tight, and be of the packer type. Such vehicles shall be thoroughly washed and sanitized weekly from May through September and bi-weekly from October through April. Garbage shall be so loaded and unloaded so that the contents shall not fall or spill upon the ground. No article or item shall be carried on such vehicles so as to drag upon the streets.
- B. Licensed collectors and haulers of yard waste and large trees and limbs shall provide themselves with suitable vehicles, which, when transporting or loading, the contents shall not spill upon the ground. No articles or items shall be carried on such vehicles so as to drag upon the streets.
- C. It is prohibited for any licensed refuse collector or hauler to collect or haul wet refuse or material subject to rot, decay or putrefaction, or material or liquids emitting strong or noxious odors, in any type of vehicle except in an all metal, packer type vehicle.
- D. Any licensed commercial collector or hauler shall not operate a refuse collection vehicle except in conformity with this chapter and any other applicable ordinances.

- E. Painting and identification. Refuse hauling vehicles used by licensed collectors or haulers under this article shall be painted at regular intervals so as to be kept in a sanitary condition. Each vehicle shall identify the name of the collector or hauler. In addition, the box capacity shall be displayed on the left side of all compact vehicles in such a manner that the capacity numbering is visible from twenty-five feet. The tire weight shall be shown in like manner and shall be certified annually at time of licensing.
- F. Refuse truck weight limits. Trucks used for regular daily residential solid waste and yard waste collection, and commercial solid waste, shall adhere to all state size and axle weight limitations and shall, under no circumstances, exceed a total gross weight of 55,000 pounds.
- G. Premises where parked or serviced. The premises on which commercial refuse vehicles under this article are parked or serviced shall be kept free from rubble, trash, debris or garbage. They shall not be parked in a residential area. (2003)

5- 4A-8 VIOLATIONS

Any person, firm or corporation failing to comply with provisions of this Chapter shall be subject to a fine of two hundred dollars (\$200) for each day's failure to comply therewith and each day shall be a separate violation. In addition, any commercial garbage collector or hauler convicted of a violation of any terms of this Chapter shall forfeit his/her/its license for not less than 30 days. (2003)

5-4A-9 EFFECTIVE DATE

This Chapter shall not become effective until July 1, 2003. (2003)

CHAPTER 5-5 NUISANCES DANGEROUS TO THE PUBLIC AND MAINTENANCE AND SANITATION OF PREMISES AND BUILDINGS

5-5-1 Purpose

The purpose of this ordinance is to protect, promote, and enhance the welfare, safety, health, and property of the general public by prohibiting the keeping or maintaining of properties at variance with and inferior to the level of maintenance of surrounding properties.

5-5-2 Definitions

(a) Building: Any structure designed or intended for the support, enclosure, shelter, or protection of persons or property.

(b) Premises: A lot or parcel of land, improved or unimproved, parking areas thereon, walkways, and sidewalks.

(c) Sidewalk: A strip of property lying in front of and between the curb line and property line of the adjoining or abutting lot, piece, or parcel of land within the city.

(d) Building Official: As used in this ordinance, shall be construed to mean the City Health Officer, the Chief of Police, the Fire Chief, the Building Official, their respective authorized representatives, or any other city official authorized by the legislative body of this jurisdiction with enforcement of this ordinance.

5-5-3 Maintenance of Premises and Buildings Generally

It shall be unlawful for any person owning, leasing, occupying, or having charge or possession of any buildings or premises in the city to keep or maintain such building or premises in a manner which is at variance with and inferior to the level of maintenance of surrounding properties.

5-5-4 Enumeration of Conditions Constituting Nuisance

- (1) Impure Water. Any well or other supply of water used for drinking or household purposes which is polluted or which is so constructed or situated that it may become polluted.
- (2) Undressed Hides. Undressed hides kept longer than twenty-four hours, except at the place where they are to be manufactured, or in a storeroom, or basement whose construction is approved by the Health Department.
- (3) Manure. The accumulation of manure, unless it be in a properly constructed fly-proof, pit, bin, or box.
- (4) Breeding Places for Flies. The accumulation of manure, garbage, or anything whatsoever in which flies breed.
- (5) Stagnant Water. Any excavation in which stagnant water is allowed to collect.

- (6) Weeds. Permitting weeds to grow to maturity, or permitting weeds or grass to grow in excess of 10" tall, on any property, including vacant lots. All noxious weeds are prohibited. (2006ORD841) (1998ORD746)
- (7) Dead Animals. For the owner of a dead animal to permit to remain undisposed of longer than twenty-four hours after its death.
- (8) Privies and Cesspools. Erecting or maintaining any privy or cesspool except such sanitary privies and cesspools, the plans of which are approved by the State Health Department.
- (9) Handling Garbage Improperly. Throwing or letting fall on or permitting to remain on any street, alley or public ground any manure, garbage, rubbish, filth, fuel or wood engaged in handling or removing any such substance.
- (10) Rodents. Accumulating of junk, old iron, automobiles, or parts thereon, or anything whatsoever in which Rodents live, breed, or accumulate.
- (11) Bonfires in Public Places. Burning, causing, or permitting to be burned in any street, alley, or public ground any dirt, filth, manure, garbage, sweeping, leaves ashes, paper, rubbish, or material of any kind.
- (12) Parking Livestock Trucks or Trailers in Residential Districts. Parking or permitting livestock trucks or trailers to remain on any street, area, or public ground in a residential district where such truck or trailer gives off any offensive odor or is contaminated with manure or other filth.
- (13) Buildings which are abandoned, boarded up, partially destroyed, or partially constructed and uncompleted subsequent to the expiration of building permits.
- (14) Building with deteriorating or peeling paint that allows the exterior building coverings to deteriorate or to permit the effects of sun and water penetration so as to encourage decay, dry rot, warping, and cracking.
- (15) Broken windows, doors, attic vents and under floor vents.
- (16) Overgrown vegetation which is unsightly and/or likely to harbor Rodents or vermin.
- (17) Dead, Decayed, or diseased trees, weeds and other vegetation.
- (18) Trash, garbage, or refuse cans, bins, boxes, bags, or other such containers permanently stored in front yards visible from public streets.
- (19) Lumber, junk, trash, tires, debris or salvage materials maintained upon any premises which is visible from a public street, alley, or adjoining property.

- (20) Abandoned, discarded or unused furniture, stoves, sinks, toilets, cabinets, refrigerators, deep freezers, washer and dryer appliances, or other household fixtures or equipment stored on the premises.
- (21) Premises having topography, geology, or configuration which as a result of grading operations or improvements to the land causes erosion, subsidence unstable soil conditions, or surface or subsurface drainage problems as to pose a threat to or be injurious to adjacent premises.
- (22) Abandoned, wrecked, dismantled or inoperative trailers, campers, boats, and other motor vehicles which are accumulated or stored in yard areas.
- (23) Building exteriors, walls, fences, driveways, or walkways which are cracked, broken, defective, or deteriorated, in disrepair or defaced.
- (24) Any like and similar condition or conditions.
- (25) No person, firm or corporation shall leave or permit to remain outside of any dwelling, building, or other structure or within any unoccupied or abandoned building, dwelling, or other structures under their control in a place accessible to children any abandoned or discarded icebox, refrigerator, or other container which has an air-tight door or lid, snap lock, or other locking device which may not be released from the inside, without first removing said door or lid, snap lock or other locking device from said icebox refrigerator, or container.
- (26) Every privy in the City of Mobridge which is located upon any lot, part of a lot, or parcel of ground abutting upon a street in Mobridge along which an underground sanitary sewer passes adjoining said lot in front or on the side, is hereby declared to be a public nuisance.
- (27) Every outdoor privy in the City of Mobridge which is located upon any lot, part of a lot, or parcel of ground abutting upon a street in said City along which an underground City water main passes in front of or along the side of said lot; and where there is a sanitary sewer adjacent thereto, shall be provided by installation and maintenance of septic tanks or cesspools; and any such privy located adjacent to said water main and not having available sanitary sewer facilities as above described, which does not provide sanitary septic tanks or a cesspool, shall be and is hereby declared a public nuisance.

5-5-5 Required Sanitation of Buildings and Premises

It shall be unlawful to permit by act or omission the following specific acts, conditions, and things which are hereby also declared to be public nuisances:

- (a) Failing, refusing, or neglecting to keep the sidewalk in front of or surrounding a house, place of business, or premises, in clean and safe condition.
- (b) Maintaining upon a premise any unsightly, partly complete, or partly destroyed buildings, structures, or improvements in the city which may

endanger or injure neighboring properties or the public health, safety, or general welfare.

- (c) Maintaining upon such premises or upon the sidewalk abutting or adjoining such lot parcel, tract, or piece of land, loose earth, mounds of soil, fill material, asphalt, concrete rubble or waste material of any kind (all such materials hereinafter be referred to as "waste materials"), except for waste materials used for construction or landscaping upon premises in which case it shall be the duty of the owner, lessee, occupant, or persons in possession of premises wherein the waste materials exist, to maintain weed control during construction and to level or remove waste materials after construction is completed, or in any event, within eight (8) months from time of placement of waste materials upon premises.

For sites where filling, grading, or excavation activities have or will span more than one year it shall be the duty of the owner, lessee, occupant or person in possession of said premises to level or remove the waste materials from said premises at least once each year during the months of either June, July, or August for the purpose of maintaining weed and rodent control.

5-5-6 Right of Entry

Whenever necessary to make an inspection to enforce any of the provisions of this ordinance, or whenever the building official or his/her authorized representative has reasonable cause to believe that there exists in any building or upon any premises, any condition which is prohibited under this ordinance, the building official, or his/her authorized representative may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the building official by this ordinance, provided that if such building or premises be occupied, he/she shall first present proper credentials and demand entry and if such building or premises be unoccupied, he/she shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry. If such entry is refused, the building official or his/her authorized representative shall have recourse to every remedy by law to secure entry.

No owner or occupant or any other person having charge or care of any building or premises shall fail or neglect, after proper demand has been made as herein provided, to properly permit entry therein by the building official, or his/her authorized representative, for purpose of inspection and examination pursuant to this ordinance. Any person violating this subdivision shall be guilty of a misdemeanor.

5-5-7 Notice to Abate, Issuance

Whenever the building official is notified that any condition or conditions prohibited in this ordinance exist on any premises located within the city, the building official shall give, or cause to be given, notice to abate the unlawful condition or conditions existing on the premises. Such notice shall be in writing to the person creating, permitting, or maintaining such nuisance to abate the same within a reasonable time as provided in such notice as follows:

- (a) If the building official has determined that the building or structure must be repaired, the order shall require that all permits be secured therefore and the work physically commenced within such time (not to exceed sixty days from the date of the order) and completed within such time as the building official shall determine is reasonable under all of the circumstances.
- (b) If the building official has determined that the building or structure must be vacated, the order shall require that the building or structure shall be vacated within a certain time from the date of the order as determined by the building official to be reasonable.
- (c) If the building official has determined that the building or structure must be demolished, the order shall require that the building be vacated within such time as the building official shall determine reasonable (not to exceed sixty days from the date of the order), that all required permits be secured therefore within sixty days from the date of the order, and that the demolition be completed within such time as the building official shall determine is reasonable.

Whenever the owner, occupant, or agent of any premises in or upon which any nuisance may be found is unknown, or cannot be found, the building official shall proceed to abate the nuisance without notice. In either case, the expense of such abatement shall be collected from the person who may have created, caused, or suffered such nuisance to exist.

5-5-7.1 Notice of Violation and Order – Not Buildings.

Whenever an authorized city official determines or has grounds to believe that there has been a violation of this code, other than a building violation under Section 5-5-7, notice and order shall be given to the owner of the property where the violation is occurring, and/or the person or persons responsible for the property. Such notice and order shall:

- 1. Be in writing.
- 2. Include a description of the property where the violation is occurring, sufficient for identification.
- 3. Include a statement of the violation(s).
- 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.
 - a. Notice and 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(s) responsible for the property, within seven (7) days after the mailing 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 5-5-4(6).
- 5. Inform the property owner or other persons responsible of their right to appeal.
- 6. Be delivered either in person or by certified mail. If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place on or about the property where the violation is occurring.

Whenever the owner, occupant, or agent of any premises in or upon which any nuisance may be found is unknown, or reasonably cannot be found, the city official shall proceed

to abate the issuance without notice. In either case, the expense of such abatement shall be collected from the person who may have created, caused, or suffered such nuisance to exist. (2006ORD841; 1998ORD746)

5-5-8 Right of Appeal from Building Official's Determination

The owner, or any person affected, shall have the right of appeal to the City Council for investigation and review of the building official's determination. Such appeal shall be in writing, shall state the objections of the person filing the same, shall be filed with the City Finance Officer within ten days after the date of posting, publishing, serving, or mailing of notice to abate, and shall be presented to the City Council by the City Finance Officer at its next regular meeting. The City Council shall determine by resolution whether the building official shall proceed in accordance with the abatement notice, or as modified by the Council, or not at all, and its decision thereon shall be final and conclusive.

5-5-9 Abatement of City

In the event that a person shall fail to abate any nuisance created, permitted, or maintained by him/her following written notice to do so, the Building Official shall cause such nuisance to be abated. . In the event one notice to abate a nuisance has been provided to a property and that property again is the subject of a like kind nuisance, the Building Official shall cause such nuisance to be abated without further notice.

The Building Official shall prepare a statement of expense incurred in the raising, demolishing, removing, reconstruction, or other affirmative act necessary to abate the unlawful conditions and shall file such statement with the City Finance Officer. Such statement shall refer to the particular premises including and improvement, structures, or buildings thereon, upon which the actions taken to abate the unlawful conditions occurred. With regard to the premises or each piece of property therein referred to, the statement shall show the number of the lot and block and the name of the addition or subdivision in which the lot lies or upon which the structures, improvements, or buildings were located at the time that the actions to abate the unlawful conditions were taken or shall describe such premises in any other way that they may be easily identified.

Upon receipt of the statement referred to herein, the City Finance Officer shall add to the expense an administrative fee which shall be an amount set by Resolution to compensate the City for the additional time and costs of City personnel associated with abating the nuisance condition.

5-5-10 Alternate Abate Procedure

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

5-5-10.1 Emergency Action Without Notice

This Article shall not apply to any nuisance that an authorized city official believes is an immediate danger to any person(s), in which case said official may take

emergency action to abate the nuisance immediately without the Notice and Order described in Section 5-5-7. (2006ORD841)

5-5-11 Notice of Equalization Assessment

Within 30 days after the receipt of the expense statement referred to in 5-5-9, the City Finance Officer shall cause the expense statement to be billed to and to be served upon the owner, agent of the owner, lessee, occupant, or person in possession of the parcel of land described in the statement personally or by mail addressed to his/her last known address, or to the general delivery, Mobridge, South Dakota, 57601, if such address is unknown.

For any billing statement which remains unpaid more than 90 days after service, the City Finance Officer shall add an Additional Administrative Fee which shall be an amount set by Resolution to compensate the City for the additional time and costs of City personnel associated with assessing the costs as a lien on the property upon which nuisance was abated.

5-5-12 Equalization of Assessment; Hearing

The owner, or any person affected, shall have the right to appeal to the City Council concerning the billing statement and proposed assessment. Such appeal shall be in writing, shall state the objections of the person filing the same, and shall be filed with the City Finance Officer within ten days after the billing statement was served. Said objections shall be presented to the City Council by the Finance Officer at its next regular meeting. The City Council shall determine by resolution the assessment and shall proceed to place a lien against said property until the assessment is paid.

5-5-13 Recovery of Expenses-Special Assessment

The City may recover the expenses and administrative costs incurred by the City in abating a public nuisance by taxing the costs thereof by special assessment against the real property on which the nuisance occurred.

5-5-14 Recovery of Expenses-Civil Suit

The city may recover the expenses incurred by the building official in abating any nuisance under the provisions of this ordinance from the person creating, permitting, or maintaining the same in a civil suit instituted for such purpose.

5-5-15 Property Demolition Requirements

Upon demolition of real estate, the property owner(s) shall remove all basement concrete or wood walls and floors at the expense of the owner and shall cap the sewer and water at its access point within 10 days. The demolition shall be under the direction of the Code Enforcement Officer and the disconnecting and/or capping of sewer and water shall be inspected and approved by the Water Superintendent. (2006ORD838; 2005ORD824)

CHAPTER 5-6 RODENT ERADICATION

5-6-1 Definitions

Terms used in this chapter, unless the context otherwise plainly requires, shall mean:

- A. "Business Building" - Any structure, either public or private, that is adapted for occupancy for transaction of business, play, sale or storage of goods, wares or merchandise, or for the performance of work and labor, including, but not being limited in its application to hotels, rooming houses, office buildings, public buildings, stores, theaters, markets, restaurants, grain elevators, abattoirs, warehouses, work shops, factories, and all out buildings sheds, barns and other structures on premises used for business purposes.
- B. "Rodent-proofing" - A form of rodent -proofing to prevent the ingress into business buildings, from the exterior or from one business building to another. It consists essentially of the closing, with material impervious to rodent gnawing, of all openings, in the exterior walls, ground on first floors, basements and foundations, that may be reached by rodents from the ground by climbing or by burrowing.
- C. "Rat Harbors" - Any condition which provides shelter or protection for rodents, thus factoring their multiplication and continuous existence in, under or outside of a structure of any kind.
- D. "Health Officer" - The City Health Officer, or his or her authorized representative.
- E. "Owner" - The actual owner of the business building, either individual, partnership or corporation, the agent of the owner in charge of said building, the person having custody of said building, and the person to whom any rental upon said building is paid. In case of business buildings leased under agreement that the lessee will in such cases also be considered as the "owner" for the purpose of this Ordinance.
- F. "Occupant" - The individual or partnership who, or the corporation that, has the use of or occupies any business building, or a part or portion thereof, whether the actual owner, tenant or sub-tenant. In the case of vacant buildings, or any vacant portion of a business building, the owner, agent or other person having custody of said building, shall have the responsibilities or an "occupant" of said building.

5-6-2 Rodent -proofing Buildings

It is hereby provided and required that all business buildings in said City shall be rodent - proofed, freed of rodents, and maintained in a rodent -proof and rodent -free condition, and to repair all breaks and leaks that may occur in the rodent-proofing, under the direction and supervision of the Health Officer.

5-6-3 Notice to Owners

Upon receipt of written notice and/or order from the Health Officer, the owner of any building specified in said notice or order shall take immediate steps for rodent -proofing said building, and unless said work and improvements required for such rodent -proofing have been completed by the owner of said building in the time specified in said written notice or order, or within the time to which a written extension may have been granted by the Health Officer, then the owner shall be deemed to have violated a provision of this Ordinance.

5-6-4 Notice, Charge Against Owner

Whenever the Health Officer notifies the occupant of a business building that there is evidence of rodent infestation of said building, said occupant shall immediately institute appropriate steps for freeing the premises of all rodents, and unless suitable measure for freeing said building of Rodents are instituted within ten days after receipt of such notice, and unless continuously maintained in a reasonable manner until said building is free of rodents, the Health Officer is hereby authorized and directed to free said building of rodents and to levy a charge against the occupant to cover the charge for labor, materials and equipment necessary for the eradication measures carried out.

5-6-5 Inspections

The Health Officer is empowered to make unannounced inspections of both the interior and exterior of business buildings within said City as in his or her opinion may be necessary to determine whether there has been a full compliance with this Ordinance, and to require a full compliance with this Ordinance. If at any time of any such inspection, the Health Officer finds evidence of rodent infestation, and/or the existence of breaks and leaks in the rodent -proofing, or new openings through which rodents may again enter said building, the Health Officer shall serve upon the owner or occupant of said building a notice and/or order to abate the conditions so found.

5-6-6 Installation of Floors

Whenever conditions inside or under business buildings provide such extensive harbors for rodents that the Health Officer deems it necessary to eliminate such harbors, he or she may require the owner to install cement floors in basement or to replace wooden first floors or ground floors or require the owner to correct such other interior rodent harbors as may be necessary in order to facilitate the eradication of rodents in a reasonable length of time.

5-6-7 Removal of Rodent -Proofing

It shall be unlawful for the occupant, owner, contractor, public utility company, plumber or any other person to remove the rodent -proofing from any business building for any purpose and fail to restore the same in a satisfactory condition; and, in like manner, it shall be unlawful for any such person to make any new openings that are not sealed or closed against the entrance of rodents.

5-6-8 Storage of Feed

All food and feed kept within said City for feeding poultry, cattle, swine, horses or other animals shall be kept and stored in rodent -free and rodent -proof building.

5-6-9 Metal Containers

All garbage or other refuse consisting of waste, animal or vegetable matter upon which rodents may feed, and all small dead animals, shall be placed and stored, until collected by the garbage department, in covered metal containers, and it is hereby declared to be a violation of this Ordinance for any person, firm or corporation to dump or place on any premises any dead animals, or any waste, vegetable or animal matter of any kind.

5-6-10 Dumping of Garbage or Rubbish Unlawful

It shall be unlawful for any person, firm or corporation to place, leave, dump or permit the accumulation of any garbage, rubbish or trash in any building or upon any premise so that the same shall or may provide food or harbors for rodents.

5-6-11 Storage of Lumber and Other Material

It shall be unlawful for any person, firm or corporation to permit to accumulate upon any premises, whether improved or vacant, or upon any open lot or alley in said City, any lumber, boxes, barrels, bricks, stones, or any other materials that may be permitted to remain thereon for any longer time than a temporary period reasonably required for the use of such materials in the building or repairing of property, unless the same shall be evenly piled or stacked so that such material will not afford harbors for rodents. That all persons and businesses shall store firewood on their premises in a neat pile with no junk materials mixed in with the firewood. no more than two cords of wood may be stored at a time.

CHAPTER 5-7 RESTAURANTS

5-7-1 License

It shall be unlawful for any person to operate a restaurant in the City who does not possess a license to do so issued by the State of South Dakota, under the provisions of SDCL 34-18 and acts amendable thereto.

5-7-2 Regulations

Every restaurant in the City shall conform to all sanitary regulations in the operation of said restaurant as provided by SDCL 34-18 and acts amendable thereto or as may hereafter be provided by the rules and regulations of the Department of Agriculture of the State of South Dakota.

5-7-3 Inspection

The Health Officer of the City shall have the right to inspect any such restaurant at any time and to report infractions of sanitary regulations to the Department of Agriculture of the State of South Dakota.

CHAPTER 5-8 SLAUGHTER HOUSES AND MEAT MARKETS

5-8-1 Offensive and Unwholesome Material on Premises

It shall be unlawful for any person or persons, firm or corporation engaged in the business of slaughtering animals or packing them for market, or rendering of any animal matter, or conducting a meat market within the City limits or within one mile thereof, to permit or suffer to remain on the premises where such business is carried on, any decaying meat, blood, bones, offal, filth or other animal matter so that the same shall become offensive and unwholesome and endanger health or be a nuisance to the neighborhood. Such premises shall at all times be kept in a clean, healthy and inoffensive condition.

5-8-2 May Enter for Inspection

The Health Officers and police of the City, and any or all of their assistants, shall be permitted free entrance at all hours of the day or night to all places used for any purpose specified in this Chapter, and shall have the right to free unrestrained examination of such places and of the machinery and utensils therein contained, and of the meat or provisions therein exposed for sale and the manner of conducting and operation such business.

5-8-3 Destroying Spoiled Meats, etc.

If in the opinion of the Health Officers of the City, any meat provisions exposed for sale in any market, shop or other building in the City are tainted, putrid, unwholesome and dangerous to the public health, it shall be the duty of the Health officer of the City to serve notice in writing upon the person exposing for sale such meat provisions, requiring him or her to destroy the same in such manner and within such time as shall such notice be prescribed, and if the person so served neglects to conform to such notice, it shall be the duty of the Health officer to destroy such meat provisions at the expense of the City, and report in writing to the City Council the amount of such expense and the name of the persons exposing such meat provisions for sale, and the person violating the provisions of this Section shall be liable to the City for any expense incident to the abatement of this dangerous and unwholesome condition.

CHAPTER 5-9 CATS

5-9-1 Cats as a Nuisance

No person owning a cat confined on his/her premises, running at large or otherwise, shall suffer or permit such cat to disturb the peace and quiet of the neighborhood by continuously making loud or unusual noises, depositing upon any public or private property offal or excrement from a cat or cats, fighting or interfering with the property of others.

5-9-2 Notification of Violation

Upon a complaint to the animal control officer that any person is keeping or harboring any cat which disturbs the peace as herein set forth, it shall be the duty of the animal control officer to notify the owner of such cat in writing of said complaint; after said owner has been given forty-eight hours notice of such violation the animal control officer, police officer, and any person with proper authority is empowered to go upon the premises and impound any such cat so disturbing the peace. If there is no known owner of the cat, then the cat may be immediately impounded.

5-9-3 Disposal of Cats

All cats impounded shall be disposed of pursuant to Section 6-4-4 of the City Ordinances except that no license for the cat is required. (2001 ORD 783)

TITLE 6- LICENSES

- CHAPTER 6-1 - GENERAL PROVISIONS**
- CHAPTER 6-2 - AUCTIONEERS, AUCTIONS**
- CHAPTER 6-3 - DANCE HALLS**
- CHAPTER 6-4 - DOGS**
- CHAPTER 6-5 - JUNK DEALERS**
- CHAPTER 6-6 - PAWN BROKERS**
- CHAPTER 6-7 - PEDDLERS, HAWKERS**
- CHAPTER 6-8 - MOBILE HOME PARKS**
- CHAPTER 6-9 - BICYCLES**
- CHAPTER 6-10 - TAXICABS**
- CHAPTER 6-11 – RESERVED**
- CHAPTER 6-12 – TATTOOING AND BODY PIERCING ESTABLISHMENTS**
- CHAPTER 6-13 - FIREWORKS**
- CHAPTER 6-14 – BUILDING MOVERS**

CHAPTER 6-1 - GENERAL PROVISIONS

6-1-1 License, Unlawful Without

It shall be unlawful for any person, persons, firm or corporation to engage in any trade, business or occupation within the corporate limits of the City of Moberly for which a license is provided in this ordinance, without first having obtained such license as hereinafter provided; provided that the provisions of this chapter shall not apply to any public officer who may in pursuance of legal process sell at public auction, any property of any kind whatsoever, nor shall the provisions of this chapter include or apply to persons engaged in the sale of farm products only.

6-1-2 License, How Obtained

Any person, persons, firm or corporations wishing to obtain a license to engage in any trade, business or occupation, as herein provided, shall pay to the City Finance Officer the amount provided by this title for the license applied for, who shall issue a receipt therefore and shall make written application to the City Council, stating the name of the person, post office, address, business, calling or vocation in which such person desires to engage, the length of time for which such license is wanted, and the particular place at which said license is to be used, and upon the presentation of said application to the City Council, said City Council shall act upon said application, and if they shall deem the applicant a suitable and proper person to have such license shall be countersigned by the City Finance Officer, and attested by the corporation seal, and shall authorize said person to carry on the business, calling or vocation in said application; but if the application is refused, it shall be endorsed upon the receipt by the City Finance Officer and he/she shall refund said money paid by the applicant.

6-1-3 Expiration of License

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.

6-1-4 When License May be Revoked

The City Council shall have power at anytime to suspend or revoke any license granted under the provisions of this ordinance whenever said 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, and in case of such revocation thereof, the said City Council may refund to the holder of such license such proportionate amount of money paid therefore as said board shall deem just.

6-1-5 Records

The City Finance Officer shall keep a record of all licenses issued by said City Council stating when and to whom issues, for what purpose and for what length of time issued, and the amount of money paid for said license, and the place where said business is to be carried on.

6-1-6 Issuance of License

Except as otherwise provided, all licenses shall be issued by the City Finance Officer, if the issuance of the license is approved by the licensing authority and the applicant shall have complied with all requirements for issuance of the license. Unless otherwise provided, all licenses shall be signed by the City Finance Officer and shall have affixed thereto the official seal of the City.

6-1-7 Revocation

The Council shall have the power to cancel any license issued by the City, 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. Notice of intention to revoke such license shall be given to licensee by notice in writing at least six (6) days prior to the time at which such actions shall be taken.

CHAPTER 6-2 - Auctioneers, Auctions

6-2-1 License

Any person, firm, or corporation engaging in auctioning in the City of Mobridge shall first obtain a South Dakota Auctioneer's License, and a copy shall be kept on file at city hall with the Finance Officer.

6-2-2 Auctions Prohibited on Streets, Sidewalks and Public Property

It shall be unlawful to conduct an auction under this Chapter on any of the streets, sidewalks or public property of the City of Mobridge, except as approved by the City Council.

CHAPTER 6-3 - DANCE HALLS - CABARET

6-3-1 Definitions

Cabarets - The term "Cabaret" in this chapter shall mean a place of public amusement where the public resorts to with or without cover charge, for the purpose of dancing, drinking and entertainment and where chairs, benches, seats or booths are provided and where lunches, soft drinks, non-intoxicating beer, wine, or other intoxicating liquors are served to patrons.

6-3-2 Hours

It shall be unlawful to conduct or operate a public dance in any public place licensed hereunder at any time later than one o'clock a.m. of any week day, or at any time on Sunday; provided, however, that the Mayor of said City may, in his discretion, grant a permit to continue such public dance not later than two o'clock a.m. of any week day.

6-3-3 Application for License

Any person, firm, association or corporation desiring to conduct, operate or maintain a cabaret shall make application for license therefore to the City Finance Officer, stating:

1. The address of the proposed public dance hall or cabaret.
2. The name, age and residence of the applicant, if a natural person or if a firm, association or corporation, its name, location and principal place of business, if any, and the name and addresses of the presiding officers and of the resident manager.

Such application shall be signed by the applicant and filled with the City Finance Officer, who shall refer the same to the City Council of the City of Mobridge. Before any license is granted by said City Council it shall be the duty of the Chief of the Fire Department, the Chief of Police and the Zoning Officer of the City of Mobridge to visit and inspect the proposed public dance hall, and to make a full report to the City Council concerning the general character, safety, sanitation, and environment of the building in which said public dance hall or cabaret is located. Every license granted hereunder shall be posted by the licensee in a conspicuous place in said establishment.

6-3-4 Building

No license for a public dance hall shall be issued until it shall be found that such room, place or hall complies with and conforms to all ordinances and health and fire regulations of the City of Mobridge, and that it is properly ventilated and is a safe and proper place for such purpose.

6-3-5 License Fee

In case the City Council shall grant any applicant a license to conduct, operate or maintain a cabaret as defined in this title upon payment of Fifty Dollars (\$50.00) to the City Finance Officer, and it shall be unlawful for anyone to operate such cabaret without first having obtained such license. All licenses granted pursuant to the provisions here of shall expire on the first day of January following, and shall not be transferable.

6-3-6 Persons Under Age of 18

It shall be unlawful for any licensee hereunder, or agent or employee of such licensee or any person in charge of a public dance conducted in a public dance hall licensed hereunder, to permit any person under the age of 18 years to attend or participate in any public dance conducted in any cabaret, unless accompanied by his or her parent or guardian or natural guardian, and there shall be posted by the licensee in a conspicuous place in every public dance hall licensed hereunder, a sign in letters not less than four inches in height and in heavy type the words, "No person under 18 years of age allowed in this room unless accompanied by a parent or guardian."

6-3-7 Falsely Stating Age

It shall be unlawful for any person under the age of 18 to gain admission to any cabaret licensed hereunder while a public dance is being conducted, by means of any fraud or falsehood respecting his or her age. It shall be unlawful for any person to falsely represent himself or herself to be the parent or natural or lawful guardian of any person under the age of 18 years accompanying such person at any public dance hall while a public dance is being conducted therein.

6-3-8 Police Supervision

Public dances conducted in any cabaret licensed hereunder shall at all times be subject to the police supervision by the police of the City of Mobridge, who are authorized to remove from such public dance hall any person who is intoxicated or is conducting himself in any improper or disorderly manner, or who is under the age of 18 years and not accompanied by his or her parent or guardian. Any police officer may require any person attending such public dance or cabaret whom he suspects to be under the age of 18 years to state his or her age and remove such person from such public dance hall for a refusal to state his or her age when so required, unless such person is accompanied by his or her guardian, or parent.

CHAPTER 6-4 DOGS, CATS AND DOMESTIC ANIMALS

6-4-1 License

It shall be unlawful for any person or persons within the City of Mobridge or within one mile of the corporate limits of the City, to keep maintain or have in his custody or under his control, any dog or animals of the dog kind, without first having obtained a license so to do from the City Finance Officer as hereinafter provided and without having paid the license fee therefore.

6-4-2 Application

Any person or persons desiring to keep, maintain, or have in his custody or control by himself, or agent, within the City of Mobridge or within one mile of the corporate limits of the City, any dog shall, prior to the first day of February in each year, make application to the City Finance Officer for a license to keep such dog, exhibiting to the City Finance Officer at the time of making said application a valid health certificate for said dog showing the same to have been vaccinated for rabies and distemper by a licensed veterinarian; whereupon he shall fill out a written application stating the name, sex, color and other distinguishing characteristics of said dog, and the name and address of the owner thereof and that said dog has no vicious propensities so far as is known to said applicant, which application shall be made on a printed form furnished by the City Finance Officer or Animal Control Officer or designee.

6-4-3 Dog License Fee and Tag

- A. The applicant, at the time of making application, shall present to the City Finance Officer a certificate from a qualified adult showing that said dog has been inoculated against rabies and pay to the Finance Officer as a license fee, the sum of \$4.00 for each male or neutered dog and the sum of \$8.00 for each unneutered female dog or intact male, for which such license is sought. The applicant for a neutered dog license shall furnish a veterinarian's certificate that such dog has been neutered. It shall be the duty of the Finance Officer or Animal Control Officer at the time of the issuance of the license provided for, to furnish and deliver to said applicant a metallic dog tag for each dog for which such license is issued, upon which the tag shall be stamped or engraved with the registered number of the dog and the year when the dog was registered, and it shall then be the duty of the owner of said dog to place a collar around the neck of such dog to be owned or kept by him/her, on which collar shall be securely fastened with the metallic tag so furnished by the City Finance officer or the Animal Control Officer; provided, that in the case of the loss of any tag so issued, the City Finance Officer is only authorized to issue a duplicate tag thereof upon payment to him of the actual cost of the same tag upon application being made therefore, and upon satisfactory proof that such dog tag has been lost. The fees for registration may be hereafter amended by resolution of the council.
- B. It shall be unlawful for any person to allow a dog owned by them or under their control to run at large within the City or within one mile of the corporate limits of the City. Any dog shall be deemed running at large within the meaning of this section when such animal is not confined upon the premises of its owner, or on the premises by consent of the owner or under the direct and immediate control

or on a leash in the hands of some attendant. Otherwise, any dog found running at large shall be prima facie evidence of the violation of this section.

- C. No person owning, keeping or harboring any dog, licensed or unlicensed, confined on the premises or otherwise within the city or within one mile of the corporate limits of the City shall permit such dog to disturb the peace and quiet of the neighborhood by continuous barking or making other loud or unusual noises. Upon receipt of a signed complaint to the Police Department that any person is keeping or harboring any dog which disturbs the peace or is vicious as herein set forth, it shall be the duty of said Police Department to notify the person keeping said dog in writing of said complaint; and after such person has been given forty-eight hours notice of such habit, any police officer or person of proper authority is hereby authorized and empowered to go upon the premises and impound any such dog or animal so disturbing the peace.

6-4-4 Destruction of Dogs and Cats Running at Large

(1) The Chief of police is hereby authorized to employ, whenever he deems it necessary, a sufficient number of persons to capture and convey to the dog pound, all dogs and cats running at large thus violating this ordinance. All captured animals will be kept with humane treatment and supplied with sufficient food and water for a period up to 48 hours, unless claimed sooner by the owner or keeper. The owner or keeper shall have the animal released to their custody providing the costs of keeping such animal are paid, and they can exhibit a license for the animal. If the owner or keeper fails to claim the animal within 48 hours, the pound shall have the right and duty to destroy the animal and cause it to be removed and buried. Persons in charge of the animal holding facility may, at their option, sell or adopt said animal at a private sale providing the sale is sufficient to cover vaccinations and other costs incurred and so long as said animal is not a "vicious animal" as herein defined.

(2) **Vicious Animal Defined:** An animal defined as vicious or has a vicious disposition or dangerous habits which is located within the city or within one mile of the corporate limits of the City is defined as follows: Any animal that has inflicted injury on a human being on public or private property (other than in a private home or vehicle in defense of person or property) or that has killed or seriously injured a domestic animal while off the owner's property or any animal harbored primarily or in part for the purpose of fighting or which is trained for fighting or any animal which chases or approaches a person on either public or private property in a menacing fashion or apparent attitude of attack (other than in a private home or vehicle in defense of person or property).

(3) In cases where a dog or cat has a vicious disposition or has dangerous habits or is diseased, the police shall notify in writing the owner or possessor of such dog or cat to muzzle and confine such animal and if thereafter such owner or possessor fails to comply with such notice the police are authorized, empowered, and directed to kill or cause to be killed such dog or cat, whether found running at large or upon the premises of the possessor of such dog or cat, forthwith, and without impounding such dog or cat.

(4) Any animal involved in an unprovoked attack which results in injury to any human or other animal, shall be impounded and quarantined and if unable to be captured, any law enforcement officer is authorized to destroy the animal to prevent further endangerment to humans or other animals. After the quarantine period, any animal impounded for an unprovoked attack which results in injury to any human shall be euthanized or at the discretion of the city, the animal may be placed at a home outside of the city. Unless permitted by the city council, no vicious animal shall be returned to reside in the city or within one mile of the corporate limits of the City. Because of the dangers involved in housing an animal which has caused an unprovoked attack on a human or another animal, the owner of the dog, within five days after the incident must commence an action in Circuit Court to show cause why said dog should not be euthanized as set forth in this ordinance.

(5) It shall be unlawful for any owner or possessor of a vicious animal to allow said vicious animal to be in violation of the provisions of this ordinance. Each day a condition prohibited by this ordinance is allowed to exist shall be deemed an additional violation of this ordinance.

(6) Police dogs in performance of its duties are exempted from the provisions of this Chapter 6-4.

(7) Quarantine or quarantine period as used in 6-4-4 and 6-4-5 shall require the animal to be housed at a safe location as determined by the Chief of Police to be monitored for a period of not less than 10 days.

6-4-5 Rabies control, generally

A. Every animal that bites a person shall be promptly reported to the Police Department or Animal Control Officer, and shall thereupon be securely quarantined until expiration of the quarantine period. Such quarantine may be at the shelter designated as the city animal shelter, or at the owner's option, in a veterinary clinic of his/her choice located in Walworth County, but in either case quarantine shall be at the expense of the owner or keeper of the animal. In the case of stray animals, or in the case of animals whose ownership is not known, such quarantine shall be at the shelter designated as the City animal shelter.

B. The owner or keeper, upon demand made by the Police Department or the Animal Control Officer, shall forthwith surrender any animal which has bitten any human, or which is suspected as having been exposed to rabies, for supervised quarantine, the expense of which shall be borne by the owner.

C. Every unvaccinated animal bitten by an animal showing positive symptoms of rabies shall be forthwith destroyed or shall at the owner's or keeper's expense and option, be held under 10 days quarantine.

D. When an animal under quarantine has been diagnosed as being rabid, or suspected by a licensed veterinarian as being rabid, and dies under such observation, the Animal Control Officer shall immediately send the head of such animal to a competent laboratory for pathological examination and shall notify the proper public health officers of reports of human contacts and the diagnosis made of the suspected

animal. When one or both reports give a positive diagnosis of rabies, the Police Department shall recommend a city-wide quarantine for a period of thirty (30) days, and upon the invocation of such quarantine no animal shall be taken into the streets or permitted to be in the streets, during such period of quarantine. In the event that there are additional positive cases of rabies occurring during the period of the quarantine, such period of quarantine may be extended for an additional six (6) months.

E. No person shall kill, or cause to be killed, any rabid animal, any animal suspected of having been exposed to rabies, or any animal biting a human, except as herein provided, nor remove the same from the city limits, without written permission from the Animal Control Officer. The carcass of any dead animal exposed to rabies shall, upon demand, be surrendered to the Animal Control Officer. The Animal Control Officer shall direct the disposition of any animal found to be infected with rabies. No person shall refuse or fail to surrender any animal for quarantine or destruction as required hereinafter when demand is made therefore by the Police Department or Animal Control Officer.

6-4-6 Reports Required When Animal Bites Person

A. Every owner or keeper of an animal having knowledge that his animal has bitten or is suspected of biting a human being shall forthwith report the same to the Police Department for disposition of such animal under the provisions of this chapter.

B. It shall be the duty of every physician, or other practitioner, to report to the Police Department the names and addresses of persons treated for bites inflicted by animals, together with such information as will be helpful in rabies control.

6-4-7 Veterinarian's Reports of Quarantine and Diagnosis of Animals

It shall be the duty of every licensed veterinarian to report to the Police Department his/her diagnosis of any animal observed by him/her as a rabies suspect. All quarantined animals must be reported to the Police Department.

6-4-8 Interference With Enforcement of Chapter

It shall be unlawful to interfere with, hinder, molest, or impose or resist any police officer or Animal Control Officer in the performance of any duty under this chapter, or seek to release any animal in the custody of the Police Department, except provided for in this chapter.

6-4-9 Poisoning Animals

No person shall unlawfully, willfully or maliciously expose any substance with the intent that it shall be eaten or drunk by any animal which is the property of another person.

6-4-10 Teasing, Molesting, Etc., Dogs, Cats

It shall be unlawful for any person to tease, molest, bait, or in any way bother and dog or cat not belonging to him/her or not legally under their control.

6-4-11 Animals may be Redeemed

Animals impounded under Ordinance 6-4 which are not to be destroyed, may be redeemed at the City Pound during regular business hours, Monday through Friday, each week, by calling the Animal Control Officer, or the Police Department, prior to disposal and upon payment of the costs and expenses incurred for the impounding. Any unlicensed female animal shall not be released until the animal is spayed and such costs are paid.

6-4-12 FINES AND City Pound Charges

Where any animal is picked up and held at the City Pound the charge to redeem such animal shall be \$25.00 for the first time the animal is picked up and impounded, plus daily care of \$5.00 per day. \$50.00 plus \$5.00 per day for the second time the animal is picked up and impounded in any calendar year and \$75.00 plus \$5.00 per day for the third and successive times it is picked up and impounded in any calendar year. Unless such charges are paid within 3 days the impounded animal shall not be released and it may then be destroyed or given away. Payment of such charges on weekends may be made to the Animal Control Officer or the Police Department and proper receipt shall be issued for such payment. City pound charges may hereafter be amended by resolution of the council.

Unless otherwise specified, any person in violation of any section of ordinance 6-4 shall be \$25.00 for the first offense and \$50.00 for the second offense per calendar year and \$75.00 for the third and successive offenses in any calendar year. Fines may hereafter be amended by resolution of the council.

6-4-13 Adult Animals Allowed

It shall be unlawful for any person or persons within the City of Mobridge or within one mile of the corporate city limits to keep, maintain or have in his custody or under his control on any lot or premises more than four adult dogs, cats, or combination thereof that are more than six months of age, for compensation or not, except for a pet store in a commercially zoned area. (2000 ORD 765, 1999 ORD 759)

6-4-14 Pit Bull Dogs

SECTIONS:

- 1: Registration of New Pit Bull Dog
- 2: Registration of Existing Pit Bull Dog
- 3: Registration Fee
- 4: Pit Bull Dogs Defined
- 5: Determination of a Pit Bull Dog
- 6: Confinement and Leashing Of Pit Bull Dogs
- 7: Signs
- 8: Insurance
- 9: Identification Photographs
- 10: Reporting Requirements
- 11: Display of Tags Required

- 12: Offspring
- 13: Irrebuttable Presumption
- 14: Failure to Comply
- 15: Additional Penalty

1: REGISTRATION OF NEW PIT BULL DOG

Any owner, keeper or harbinger of a pit bull dog within the City or within one mile of the corporate limits of the City shall register and license said pit bull dog with the Finance Officer within ten (10) days of moving to the City or of obtaining a pit bull dog and be subject to the standards and requirement set forth within this Chapter. Said pit bull dog shall be re-registered with the City Finance officer by February 1st of each year.

2: REGISTRATION OF EXISTING PIT BULL DOG

Any owner, keeper or harbinger of a pit bull dog within the City or within one mile of the corporate limits of the City upon the effective date of this Ordinance shall register and license said pit bull dog with the Finance Officer and be in complete compliance with this Chapter within thirty (30) days of the effective date of this Ordinance. Said pit bull dog shall be re-registered and licensed with the City Finance Officer by February 1st of each year thereafter.

3: REGISTRATION FEE

The registration of a pit bull dog shall include a registration fee shall be as outlined in Chap. 6-4-3. The registration shall not be considered complete until this fee is paid.

4: PIT BULL DOGS DEFINED

A "Pit Bull Dog" is defined to mean:

- a. A bull terrier breed of dog;
- b. Staffordshire bull terrier breed of dog;
- c. The American pit bull terrier breed of dog;
- d. The American Staffordshire terrier breed of dog;
- e. The Presa Canario breed of dog;
- f. The Cane Corso breed of dog;
- g. Any dog of mixed breed with the above or of other breeds than above listed which breed or mixed breed is known as pit bull terriers; or
- h. Any dog displaying the majority of physical traits of any one or more of the above breeds, or any dog exhibiting those distinguishing characteristics which substantially conform to the standards established by the American Kennel Club or United Kennel Club for any of the above breeds.
- i.

5: DETERMINATION OF A PIT BULL DOG

If any owner or keeper of any dog alleged to be subject to the provisions of this Chapter disputes whether the dog falls under the definition set forth herein, the owner of such dog may file a written petition with the Animal Control Officer or Chief of Police requesting that a determination be made as to the breed of the dog. The dog shall then be observed by the Animal Control Officer or Chief of Police and two (2) veterinarians for the purpose of determining the dog's breed. Whether or not the dog meets the definition of a "pit bull dog" under the provisions of this Chapter shall be determined by the Animal Control Officer or Chief of Police and the two veterinarians and in the event determination is made that the dog does fall under the definition set forth herein, said dog shall become in compliance with all provisions of this Chapter within five (5) days of the determination and may be impounded and held by the Animal Control Officer or Chief of Police until compliance is complete or the animal may be destroyed.

6: CONFINEMENT AND LEASHING OF PIT BULL DOGS

Any pit bull dog shall be securely confined indoors or outdoors in a securely enclosed and locked pen or kennel approved by the Animal Control Officer or Chief of Police, or in a fenced area approved by the Animal Control Officer or Chief of Police, except when leashed as provided herein. Any pen, kennel, structure or fence shall be secure to assure that any pit bull dog confined therein cannot escape in any manner, including by digging under, climbing over or by force. Any structure or fence used to confine any pit bull dog shall be locked with a key or combination lock when such animal is within the structure or fence. Any structure or fence erected to confine pit bull dogs shall comply with all zoning and building regulations of the City. Any such structure shall be adequately lighted and ventilated and kept in a clean and sanitary condition.

No person shall permit a pit bull dog to be kept on a porch, patio or in any part of the house or structure that would allow the dog to exit such building of its own volition. In addition, no such animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the dog from exiting the structure.

No person shall permit a pit bull dog to go outside its kennel or pen or approved fenced area unless such dog is securely leashed with a leash no longer than four feet in length. No person shall permit the pit bull dog to be kept on a chain, rope or other type of leash outside the kennel or pen or approved fenced area unless a person is in physical control of the leash. Such dogs may not be leashed to inanimate objects such as trees, posts, buildings, etc.

7: SIGNS

Any owner, keeper or harbinger of any pit bull dog within the City or within one mile of the corporate limits of the City shall within ten (10) days of the effective date of this ordinance display in a prominent place on their premises a sign measuring not less than 8.5 inches by 11 inches which is easily readable by the

public stating in letters not less than 2 inches high the following: "A PIT BULL DOG IS KEPT ON THIS PROPERTY".

8: INSURANCE

Any owner, keeper or harbinger of any pit bull dog shall upon registering and licensing the pit bull dog provide proof to the City Finance Officer of public liability insurance in a single incident amount of \$250,000.00 for bodily injury to or death of any person or persons or for damage to property owned by any persons which may result from the ownership, keeping or maintaining of such animal. Such insurance policy shall provide that no cancellation of the policy will be made unless ten (10) days written notice is first given to the City Finance Officer.

9: IDENTIFICATION PHOTOGRAPHS

Any owner, keeper or harbinger of a pit bull dog shall upon registering and licensing the pit bull provide to the Finance Officer two color photographs of the animal clearly showing the color and approximate size of the animal.

10: REPORTING REQUIREMENTS

Any owner, keeper or harbinger of a pit bull dog shall within ten (10) days of the incident, report the following information in writing to the Animal Control Officer or Chief of Police as required hereinafter:

- a. The removal from the City or within one mile of the corporate limits of the City or death of a pit bull dog;
- b. The birth of offspring of a pit bull;
- c. The new address of a pit bull dog owner or keeper should the owner or keeper have moved within the City limits or within one mile of the corporate limits of the City.

11: DISPLAY OF TAGS REQUIRED

It shall be the responsibility of the owner or keeper of the pit bull dog to place a collar around the neck of each dog to which the registration tag furnished by the Finance Officer shall be securely fastened. The tag shall be used by the Animal Control Officer or Chief of Police to identify whether or not any pit bull dog has been properly registered pursuant to this Chapter.

12: OFFSPRING

Any offspring born of any pit bull dog within the City or within one mile of the corporate limits of the City shall be in compliance with all City Ordinances within 12 weeks of birth with exception of the vaccination requirement but at 6 months of age the pit bull must be vaccinated and full registration shall be completed with the City Finance Officer.

13: IRREBUTTABLE PRESUMPTION

There shall be an irrebuttable presumption that any dog registered with the City or within one mile of the corporate limits of the City as a pit bull dog or any of those breeds discussed within this Chapter is in fact a dog subject to the requirements of this Chapter.

14: FAILURE TO COMPLY

It shall be unlawful for any owner, keeper or harbinger of a pit bull dog within the City or within one mile of the corporate limits of the City to fail to comply with the requirements and conditions set forth in this Chapter. Any dog found to be the subject of a violation of this Chapter shall be subject to immediate seizure and impoundment. In addition, failure to comply may result in the revocation of the license of such animal resulting in the immediate removal of the animal from the City and within one mile of the corporate limits of the city or resulting in the animal being permanently placed in the control of the Animal Control Officer with the final disposition of the pit bull dog at the discretion of the Animal Control Officer.

15: ADDITIONAL PENALTY

In addition to the penalties set forth in this Chapter any person violating or permitting the violation of any provision of this Chapter may be subject to the revocation of the registration of any pit bull dog. Revocation of said registration shall result in the pit bull dog being immediately removed from the City and one mile of the corporate limits of the City and/or the dog to be placed in the immediate and permanent control of the Animal Control Officer or Chief of Police with final disposition or destruction of the animal being at the discretion of the Animal Control Officer or Chief of Police. In addition, any person who violates this Chapter shall pay all expenses including shelter, food, handling, veterinary care, restitution, and testimony necessitated by the enforcement of this Chapter.

All provisions of this Chapter 6-4 apply to all animals kept or harbored within the City and within one mile of the corporate limits of the City of Mobridge.

CHAPTER 6-5 - JUNK DEALERS

6-5-1 Definition

The term "junk dealer" as used in this ordinance shall mean any person or persons, firm or corporation who is engaged in business as a dealer and/or trader in junk, old metals, rags, waste paper, old automobiles or other articles or things, the worn condition of which renders them useless for the purpose for which it was made.

6-5-2 License Required

Every person or persons, firm or corporation who is engaged in the business of junk dealing shall before engaging in such business obtain a license.

6-5-3 Application for License

Any person, persons, firm or corporation desiring to procure a license as herein provided shall file with the City Finance Officer a written application pursuant to Section 6-1-2 shall also describe in detail the character of the business in which he/she, they or it desires to collect, but, sell or otherwise deal with. It shall also state the following:

- A. The length of time the applicant(s) has or have resided in the City of Mobridge, places of previous employment, whether he or they or any of them have been convicted of a felony or misdemeanor, and if so what offense, when and in what court.
- B. The premises where the business is to be located or carried on. Such description shall be given by street and number in case of a building and in case such business is carried on wholly or in part on a vacant lot or lots, the lot and block number shall be given, together with the exact dimensions of the space to be occupied in any manner in the conduct of such business.
- C. Such other information as may be required by the City Council.
- D. Such application shall contain the consent and agreement by the applicant that any license granted for such application may be revoked by the City Council at any time without notice or hearing upon violation by the holder of said license of any of the provisions of this ordinance or any other ordinance of the City of Mobridge or statute of the State of South Dakota

6-5-4 License Fees

Every junk dealer shall pay an annual license fee of \$250.00 for each established place of business. All licenses shall be issue as of January 1 of each year and shall continue in force until December 31st, next succeeding the date of issuance thereof unless sooner revoked by the City Council.

6-5-5 Licenses, Granting

Upon filling of the application, together with the necessary license fee, as provided in the preceding section, the City Council, if they deem such applicant a fit person to

engage in such business, shall by majority vote grant such license and thereupon such license shall be issued by the City Finance Officer in the manner as provided for the issuance of other licenses in the City of Mobridge by Chapter 6-1 of the Title, and no applicant to whom a license has been refused shall make further application until a period of at least twelve months shall have elapsed since the last previous rejection, unless he can show that the reason for this rejection no longer exists.

6-5-6 Revocation of Licenses

The City Council may at any time, for such cause, if it, upon investigation deems sufficient, revoke any license granted under the provisions of this ordinance without any hearing or notice to the holder of such licenses and whenever such license shall be revoked, no refund of any unearned portion of the license fee shall be made. Notice of such revocation and the reasons shall be served by the city Council upon the person or persons, firm, association of corporation named in the application either by personal service or by mailing the same to the address given in the application and filling a copy with the Finance Officer of the City of Mobridge.

6-5-7 Record of Purchases

Every junk dealer shall keep in such form as the Chief of Police shall prescribe, and written in ink or indelible pencil, a daily record of all articles purchased, the name, residence, age and occupation of the person from whom each article was purchased and the name of the employer of such person, also the day and hour of such purchase and the price paid. the records shall at all reasonable times be open to the inspection of the Chief of Police or any police records shall be changed, erased, obliterated, or defaced.

6-5-8 Reports to Police Department

Every junk dealer, upon being served with written notice so to do by a member of the Police Department, shall report to the Chief of Police a description of all goods, articles or things purchased or received by him in the course of business of a junk merchant at such time and during such period of time specified in the notice, stating the amount paid for and the name, residence and general description of the person from whom such goods, articles or things were received.

6-5-9 Restrictions

A. No junk dealer shall carry on business at or from any other place that the premises designated and described in the application and license and all junk of all kinds and description shall be kept wholly within the boundaries of such premises.

B. It shall be unlawful for any junk dealer to bury old cars or other refuse on the premises covered by said license or at any other place within the City of Mobridge.

C. The wrecking and dismantling of old cars or other material for the purpose of junking the bodies, obtaining scrap material, or securing old parts, shall be done wholly inside the buildings occupied by said junk dealer or within the enclosure hereinafter provided for and shall not in any event be done upon the highways or streets of the City or outside the premises described in the application and license.

D. In all cases where the business of a junk dealer is to be conducted on a vacant lot or lots, or in a partially enclosed structure, said lots or structure shall be enclosed by a tight board fence, ten feet in height, or by a ten foot Cyclone wire fence or other wire fence of like construction. Said fence shall be properly maintained and kept in regular repair by the licensee and shall be so constructed with gate or gates to prevent unauthorized entry to said premises, and all junk of all kinds and description shall be kept wholly within the boundaries of such enclosure and shall not in any event be deposited on the highways, streets, sidewalks or boulevards of the City.

Licensee shall be allowed until six months from the effective date of this Ordinance, to comply with the provisions of this section for the erection of enclosures as herein provided, and failure so to do prior to such time shall be sufficient cause for the revocation of any license issued under the provisions of this chapter.

CHAPTER 6-6 – PAWN BROKERS

6-6-1. Definition.

(a) The following term, when used in this article, shall have the meaning ascribed to it in this section, except where the context clearly indicates a different meaning:

Pawnbroker means any person who:

- (1) Engages in the business of lending money on the deposit or pledge of personal property, or other valuable thing on the condition of selling the same back again at a stipulated price; or
 - (2) Purchases personal property with the expressed or implied agreement or understanding to sell it back at a stipulated price.
- (b) This definition shall exempt the following transactions:
- (1) Any person whose primary business is selling new, unused articles, and receiving used articles in trade from the purchaser.
 - (2) Casual or occasional sales of used household goods by the owner thereof to the public, this category includes those sales commonly referred to as "garage sales."
 - (3) Any person dealing exclusively in the resale of used automobiles.
 - (4) Any person that operates as a salvage yard for wrecked automobiles.
 - (5) Transactions in secondhand goods at stores or events sponsored by nonprofit corporations, fraternal organizations, or religious organizations.
- (2005ORD809)

6-6-2. License Required.

It shall be unlawful for any person to engage in the business of pawnbroker without first obtaining a license from the city finance office. (2005ORD809) (1998 § 6-6-1)

6-6-3. Prohibited for person with felony conviction.

No pawnbroker's license shall be issued to any person who has been convicted of a felony. (2005ORD809)

6-6-4. Fixed premises.

(a) No person shall engage in business as a pawnbroker unless such person has a fixed premise where such business is conducted, either on a continuing basis or from time to time, and unless such person has first obtained a license to engage in that business at that premises.

(b) For the purposes of this section, the term "fixed premises" shall include any nonmobile premises where such business is conducted and such pawned articles are held. (2005ORD809)

6-6-5. License fee.

The annual pawnbroker's license fee shall be as provided by resolution of the city council, payable in advance. (2005ORD809) (1998 § 6-6-2)

6-6-6. Bond.

Before any license shall be issued to any person for doing business as a pawnbroker, as defined in this article, having an established place of business, he/she shall first file with the city finance officer a surety bond in the sum of \$1,000.00. All such bonds shall be conditioned that the principal named therein shall observe the ordinances of the city in relation to pawnbrokers and conduct business in conformity thereto, and will account for and deliver to any person legally entitled thereto any goods, wares or merchandise, article or thing which may come into his/her hands, through his/her business as such pawnbroker or in lieu thereof will pay in money to such person the reasonable value thereof. (2005ORD809)

6-6-7. Records required.

(a) At the time of each transaction, each licensee must immediately record in English the following information using ink or other indelible medium on forms or in a computerized record approved by the city police department:

- (1) A complete and accurate description of each item including, but not limited to, trademark, identification number, serial number, model number, brand name, description, color, size, or other identifying mark.
- (2) Purchase price or amount of money loaned.
- (3) The maturity date of the transaction and the amount due.
- (4) Whether the item was pawned, sold, or consigned.
- (5) Date, time and place the item of property was received by the licensee.
- (6) The unique alpha and/or numeric transaction identifier that distinguished it from all other transactions.
- (7) Full name, address, date of birth, sex, of the person pawning the merchandise.
- (8) Identification number and state of issuance of photo ID from the person pawning the merchandise.
- (9) The signature of the person pawning the merchandise.

(b) Records shall be open to inspection by the city police department at all reasonable times.

(c) All items sold, pawned, or offered for sale on the licensed premises are included in the records requirement. Private sales to employees require the same reporting as transactions completed with the licensed premises.

(d) Any licensee who fails to keep such records, or fails to make the required entries therein, or who intentionally or knowingly makes any false or unintelligible entry, or any entry which he has reason to believe is untrue, or who fails to produce his records when requested by a city police officer during reasonable business hours, or who destroys such records, shall be guilty of a misdemeanor.

(e) The licensee is exempt from reporting bulk purchases of new merchandise from a merchant, manufacturer, or wholesaler having an established permanent place of business. The licensee is required to maintain a record of such a purchase, which describes each item. (2005ORD809) (1998 § 6-6-3)

6-6-8. Inspection of items.

At all times during the terms of the license, the licensee must allow police officers to enter the premises during normal business hours to inspect items held by the licensee or records required by these ordinances. (2005ORD809)

6-6-9. Label required.

The licensee must attach a label to every item at the time it is pawned, purchased, or received in inventory from any reportable transaction. The label shall contain the unique alpha and/or numeric transaction identifier that distinguished it from all other transactions. The label must be attached to the item at all times while the item is on the licensed premises. (2005ORD809)

6-6-10. Receipts.

Every pawnbroker or dealer in secondhand goods, purchasing or receiving on deposit for a loan any article or personal property, shall give to the person selling or depositing such article or personal property a plain written or printed ticket or receipt for the article or property so sold or deposited, showing the terms and amount of such sale or loan and a description of the property purchased or deposited as security for the loan. (2005ORD809)

6-6-11. Purchase from minors, etc.

No pawnbroker or dealer in secondhand goods shall purchase or receive on deposit any personal property, goods, wares, merchandise, articles or thing, from minors, persons of unsound mind or intoxicated persons, except that the parents or guardians of minors may give their written consent for such transactions. (2005ORD809) (1998 § 6-6-4)

State law references: Power of city to forbid the purchase from minors of articles without the consent of their parents, SDCL § 9-34-9.

6-6-12. Reports to police.

The licensee is required weekly to provide the city police department with copies of all pawn, buy, or consignment transactions. Such copies may be carbon copies of the original pawn ticket or a computerized record. The copies or computerized record shall contain all the information required by section 6-6-7. (2005ORD809)

6-6-13. Holding period.

Any person licensed as a pawnbroker, who purchases any new or secondhand goods from any individual not engaged in trade, shall keep the goods for 30 days from the time of transfer. The property shall be held on the licensed premises and shall not be disposed of or altered from the form in which it was received. (2005ORD809)

6-6-14. Law enforcement hold order.

Any officer of the city police department may, by written order, order a pawnbroker to hold any article or articles for the purpose of further investigation. The written law enforcement hold order shall be valid for a period of 30 days. The licensee shall not dispose of or alter the article during the hold period. (2005ORD809)

6-6-15. Suspension, revocation of license.

- (a) After written notice and a public hearing, the city council may suspend the pawnbroker's license of any licensee who violates any provision of this article, for a prescribed period not to exceed 60 days.
- (b) After written notice and a public hearing, the city council may revoke the license of any licensee who violates the provisions of this article. (2005ORD809)

CHAPTER 6-7 – PEDDLERS – HAWKERS

6-7-1 Definitions

Peddler – A person, firm or corporation who sells or solicits the sale of any merchandise or trade from house to house, place to place, or upon the public street or public place within the City Limits of Mobridge

Transient Merchant- A person, firm, or corporation that engages in a temporary business of selling and delivering goods, services, and/or merchandise within the city limits of Mobridge and lease, use, or occupy any building, structure, motor vehicle or tent for the sale or display of such goods or services either privately or at a public auction. Associating temporarily with any local dealer or merchant does not constitute exemption from this definition.

Public Market- A place where persons may stand and offer for sale from vehicles, stands or other receptacles, farm or orchard produce within city limits of Mobridge. Persons offering for sale produce raised by them and living within the local trade area of Mobridge are exempt from this definition.

6-7-2 Permits and Fees

Any person engaging in the sale or transfer of goods as defined in section 6-7-1 shall make application in writing to the City Finance Officer. Listed on the application shall be the legal name of person(s), firm, or corporation conducting business, nature of sale, duration of business and any applicable South Dakota sales tax and/or business license number. A signed permit will be issued providing the form is correctly completed, and all licensing in place.

A fee in the amount of \$20 per day, \$75 for a 30-day permit, or \$250 for an annual permit shall be collected prior to issuance of the permit.

6-7-3 Trespassing

No person, firm or corporation, as defined in section 6-7-1, or representatives thereof, shall engage in the practice of being in and upon private residences in the City of Mobridge unless they are invited or requested to do so by the owner(s) for the purpose of selling goods, services, or merchandise. Such violations shall be declared nuisances and punishable as a misdemeanor.

6-7-4 Enforcement

Any person, firm or corporation as defined in section 6-7-1 shall, upon demand of the Chief of Police of Mobridge, display evidence of compliance with above requirements. Failure to secure permit prior to start of sale shall be punishable by a fine not to exceed \$100 for each violation.

6-7-5 Supervision of Open Markets

Person(s), firms, or corporations engaging in open markets shall be subject to the control and supervision of the Mobridge Police Department. Such open markets shall be kept in a clean and sanitary manner, free from rubbish and decaying debris. Violations shall be punishable by a fine not to exceed \$100 per violation.

6-7-6 Exceptions to Section Provisions

The provisions of this section shall not apply to solicitations, sales or distributions made by charitable, civic, educational or religious organizations which have their principal place of activity in the city.(2003 ORD 799)

CHAPTER 6-8 – MOBILE HOME PARKS

6-8-1 Definitions

- A.. A "**Mobile Home**" is any moveable or portable unit constructed and designed to be towed on its own chassis and designed to be connected to utilities for human occupation and habitation as a permanent residence.
- B. The term "**person**" shall be construed to import both plural and singular and shall include natural persons, firms, partnerships, associations, companies and corporations.
- C. "**Mobile Home Park**" means any park, trailer park, trailer court, camp, site, lot, parcel or tract of land designed, maintained or intended for the purpose of supplying a location or accommodation by the owner, tenant or lessee, or third persons for any trailer coach or coaches and upon which any trailer coach or trailer coaches are parked and shall include all buildings used or intended to be used as a part of the equipment thereof, whether a charge is made for the use of the trailer park and its facilities or not. "Mobile Home Park" shall not include automobile or trailer sales lot on which unoccupied trailers are parked for purposes of inspection and sale.
- D. "**Mobile Home Site**" shall mean any site, lot, parcel or tract of land upon which is located or parked, temporarily or permanently a trailer coach to be used and occupied, or which is used and occupied for dwelling or sleeping quarters, or both, for one or more persons, whether the site, lot, parcel, or tract of land is owned by the owner of the trailer coach or not, and whether or not the same is occupied by the owner thereof or by a tenant.

6-8-2 Administration

The administration of Chapter 6-8 shall be under the supervision and jurisdiction of the Mayor and the City Council. The Mayor and City Council or their duly authorized representatives shall have the right and are hereby empowered to enter upon any premises on which any mobile homes are located, or about to be located and inspect the same and all accommodations connected therewith at any reasonable time; and are further empowered to issue orders granting, renewing, and revoking such permits or licenses as provided for in accordance with the provisions of this ordinance.

6-8-3 Location and Areas

- A. (1) Mobile Home Parks shall be located only in the business and industrial zoned areas of the city of Mobridge as described and defined by the City of Mobridge Zoning Ordinance.
- (2) After a public hearing, the City Council may issue a license for the location of a mobile home park in any district in which licenses are herein prohibited. Notice of such public hearing shall be given by publication once at least one week prior to the date set for said hearing. If upon such hearing the board finds that denial of such licenses will cause unnecessary hardship on the applicant, and finds in

addition that the owners of all property within 200 yards of the proposed trailer coach park shall not suffer unnecessary hardship by reason of the operation of the mobile home park at the proposed location, the license can be granted.

(3) No mobile home parks shall be located within the limits of the City of Mobridge unless City water and sewer connections and fire protection and fire protection facilities are available.

(4) All licensed mobile home parks in existence at the date of the passage and adoption of this ordinance shall have their licenses renewed from year to year upon application and payment of license fees as herein provided. In the event any trailer coach park in existence at the time of the passage and adoption of this ordinance located other than in the area herein provided be abandoned, the same shall not again be renewed except upon notice and hearing for special license as herein provided.

6-8-4 License for Mobile Home Park, Application Therefore and Issuance Thereof

- A. No persons shall establish or maintain a mobile home park, as defined herein, without first obtaining a license therefore from the governing body of the City of Mobridge, and agreeing, in writing to comply with the terms of this ordinance, provided that a plot of ground upon which unoccupied mobile homes are located for the purpose of sale or trade shall not be constructed to be a mobile home park, nor shall said situated mobile homes be used at any time, for housing or sleeping of persons. All mobile home parks in existence upon the effective date of this ordinance shall obtain a license and in all other respects comply fully with the requirements of this ordinance, except that the mobile homes already parked and established upon any lot or lots within the City of Mobridge on the effective date of this ordinance, may be granted a special renewal license by the City Council to remain as part or located upon said site, even though the same may not Comply fully with the provisions of this ordinance. The special permit or license shall be at the discretion of the City Council.
- B. Application for license. Any reputable person desiring to establish, maintain, or operate the mobile home park shall make application in writing to the governing body of the City of Mobridge for a license which application shall set forth the following:
 - 1. Sketch of area to be used for park purposes, showing dimensions, driveways, proposed location of units, and location of sanitary conveniences.
 - 2. Statement relative to water supply, sewage and garbage disposal.
 - 3. The location and legal description of the mobile home park.
 - 4. Plans and specifications of all buildings or other facilities already constructed, or to be constructed and used in connection with the operation of said mobile home park.

5. Location of office where books and records pertaining to the operation of said mobile home park as required by this ordinance shall be kept.
- C. License fee, mobile home park. Fifty Dollars for first trailer; and \$2.00 for each mobile home over one contained within the mobile home park.
 - D. License granted. Before a license is granted, all applications shall be examined by the City Council or their representatives, who shall investigate the applicant and inspect the premises and proposed plan to make certain that the applicant is of good moral character, and the proposed mobile home park will be in compliance with all provisions of the City of Ordinances and the laws of the State of South Dakota in regard to zoning, safety, and sanitation; and such officer shall, in writing, submit their findings to the City Council. Licenses issued hereunder grant no right to erect any buildings or to do any plumbing or to do any electrical work. All plumbing, electrical, building and other work on or at any mobile home park licensed under this chapter, shall be in accordance with the ordinances of the City of Mobridge regulating such work unless such ordinances specifically made inapplicable under the terms of this ordinance.
 - E. Transfer of license. Licenses granted under this ordinance shall not be transferable without the approval of the governing body of the City of Mobridge upon application made in writing to the City Council for such transfer, which application shall set forth the following:
 1. The name and post office address of the person holding such license.
 2. The name and post office address of the person to whom application for transfer is made.
 3. The location and legal description of the mobile home park upon which application for transfer is made.
 - F. Revocation and suspension of license. The governing body may revoke any license issued pursuant to this ordinance if, after due notice to the holder of said license and hearing thereon it is determined that the holder thereof has violated any of the provisions of this ordinance, or that any mobile home or mobile home park becomes a nuisance, or is being maintained in any immoral, unsanitary, unsafe or unlawful manner.
 - G. Connection with Water and Sewer Systems. Every mobile home park shall be connected with the City Water and Sewer systems if any portion of the plot is within 200 feet thereof, where such facilities cannot be made available, water supply for the trailer coach park shall have the approval of the City Health Officer, and septic tanks shall be installed as directed by the Health Officer. In no case shall privies be allowed.
 - H. It shall be unlawful to permit water from sinks, showers, or other fixtures of any kind in any unit to be discharged onto the ground or street.
 - I. Electricity shall be provided for each mobile home and the mobile home park grounds, and if washroom, toilets and other service buildings are available upon

the mobile home park site, the same shall be properly lighted with electricity at all times.

- J. Setback and spacing. No occupied mobile home shall be located within the setback line established in the zoning district in which said unit is located. There shall be no less than six feet between trailer coaches, end to end, and no less than ten feet between such homes, side to side, and no mobile home shall be closer than six feet to any building nor shall it be located within six feet of the property line or the adjoining property.
- K. Garbage disposal. The manager of each mobile home park shall provide sufficient water tight metal garbage cans, with tight fitting covers, and the garbage disposed of by the person operating the camp at least three times each week, or placed in such places as will be collected by the City of Mobridge garbage collector.
- L. Management. In every mobile home park, there shall be an office for the person in charge of said park at which shall be kept a register of guests, showing the names addresses, dates of entrance and departure, license number of all mobile homes, automobiles and states issuing such licenses. Each register shall be kept available for public inspection at any time and shall not be destroyed until the expiration of twelve months from the date of registration.

6-8-5 Permit for Mobile Home Site, Application Therefore and Issuance Thereof

- A. It shall be unlawful for any person to locate or maintain, or permit to be located or maintained upon any property owned or controlled by him or her, a mobile home upon a mobile home site within the City of Mobridge, without first having secured a permit therefore, from the City of Mobridge granted and existing in compliance with the terms of this chapter.
- B. (1) No mobile home site shall be located within the City of Mobridge upon any site, lot, part of lot, parcel or tract of land, EXCEPT, as provided by the City of Mobridge Zoning Ordinance.

(2) The City Council may issue a permit for the location of a mobile home site in any district in which permits for mobile home sites are herein prohibited after a public hearing if upon such hearing said boards finds that denial of such permit will cause unnecessary hardship on the applicant and finds in addition that the owners of all property within 200 yards of the proposed site will not suffer unnecessary hardship by reason of the location of said trailer home site, at the proposed location. Notice of such public hearing shall be given by publication once at least on week prior to the date set for said hearing.

(3) No mobile home site shall be located within the limits of the City of Mobridge, unless City water and sewer connections and fire protection facilities are available.

(4) It shall be unlawful, within the limits of the City of Mobridge, for any person to park any mobile home on any street, alley or highway or other public

place, or on any tract of land owned by any person, occupied or unoccupied, within the City of Mobridge except as provided in this chapter.

(5) All mobile home sites established prior to the effective date of this ordinance, even though located in an area in which said mobile home site is prohibited shall not be affected by the location provisions of this section, but shall be required to comply with all other provisions of this ordinance. Provided, however, that any mobile home site located in an area prohibited by this section if abandoned by removal of said retailer coach shall thereafter come within the provisions of this ordinance and shall not again be occupied as a mobile home site except upon special permit as herein provided.

C. Upon said application being presented to the City Council they shall inspect said premises, said mobile home, the area within which the same is to be located and be satisfied that the location of said mobile home site shall comply with all of the provisions of this chapter and all other applicable ordinances of the City of Mobridge. Permit shall be granted only upon the favorable vote of a majority of the governing body.

CHAPTER 6-9 BICYCLES

6-9-1 Licensing Procedures

No person who resides within the City of Mobridge, South Dakota, shall ride or propel a bicycle on any public street, alley, sidewalk or upon any public path set aside for the exclusive use of bicycles unless such bicycle has been licensed and a license tag is attached thereto as provided herein.

Application for a bicycle license tag shall be made upon a form provided by the City Finance Officer. An annual fee of \$1.00 shall be paid to the City Finance Officer. This license shall expire on December 31 of each year.

6-9-2 Conditions of Licensing and Regulations for Operation of Licensed Bicycles

- A. No bicycle shall be ridden faster than is reasonable and proper, and every bicycle shall be operated with reasonable regard to the safety of the operator and any person upon the public sidewalks, street, alleys and other public right of way of the City.
- B. Every person riding or propelling a bicycle upon any street or other public highway in the City shall observe all traffic rules and regulations applicable thereto, and shall turn only at intersections, signal for all turns, ride at the right hand side of the sidewalk, street, alley, highway or right of way, pass to the left when overtaking and passing vehicles and pass to the right when meeting vehicles.
- C. Carrying articles. No person operating a bicycle shall carry any package, bundle or article which prevents the rider from keeping at least one hand upon the handle bars.
- D. Clinging to vehicles. No person riding upon any bicycle shall attach the same or himself to any vehicle upon the roadway.
- E. Parking bicycles.
 - (1) No person shall park or leave unattended any bicycle upon a public street except in a regularly designated parking area.
 - (2) No person shall park or leave unattended any bicycle upon a public sidewalk so to obstruct the free passage thereon by pedestrians, nor shall said bicycle be parked or left unattended upon any sidewalk so as to obstruct free passage to and from any doorway.
- F. Parent and Guardian liability. The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate any of the provisions of this article.

6-9-3 Penalty

Any person violating the provisions of this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$200.00, or imprisonment for not more than 30 days; or both such fine and imprisonment, provided that in case of violation of any provisions hereof the Court may, in lieu of or in addition to, the penalty provided herein, suspend the license of any person granted hereunder, for a period of not more than 30 days; and may suspend permission of the person violating this Ordinance from operating any bicycle for a period of 30 days, and may impound any bicycle used in violation of this Ordinance for a period of not more than 30 days.

CHAPTER 6-10- TAXICABS

6-10-1 License Required

No person, firm or corporation shall operate a taxicab within the city of Mobridge without first having obtained from the City Council a license therefore and without having complied with all provisions of this chapter.

6-10-2 License Fee

The fee for such license is to be paid annually and in advance, shall be; for the first taxicab, the sum of the Fifty Dollars and for each additional license issued to any one person, firm or corporation, the sum of Twenty-five Dollars. Licenses shall extend from the first day of January until the thirty-first day of December following, and full license fee must be paid for any part of such year.

6-10-3 Inspection

No taxicab shall be licensed until it has been thoroughly and carefully tested and inspected, and found to be in a thoroughly safe condition, for the transportation of passengers, and clean, fit, and good appearance.

Mechanical Tests: Mechanical tests shall be made by any testing garage or testing station approved by the Chief of Police and shall include the following: brakes, horn, windshield wiper, rear view mirror, steering mechanism, head lights, and tail lights.

Physical inspection shall be made by the Chief of Police and shall include the following: condition of tires, including spare tire, cleanliness and general appearance.

It shall be the duty of the owner of each taxicab to submit to the Chief of Police, for inspection of each cab prior to the issuance of the license, or at any time upon complaint, and the Police Department may inspect such vehicles at other times as they may deem necessary, and it shall be unlawful for the owner or persons in charge of any taxicab to use or permit its use, in case it has been condemned by the Chief of Police, until such vehicle has been repaired to the satisfaction of the Chief of Police.

6-10-4 Application for License

Any person, firm or corporation desiring a license for a taxicab or taxicabs shall make a written application therefore to the City Council upon blanks to be furnished by the City Finance Officer. Said application shall contain the full name and address of the owner, the make, model and year of manufacture of the vehicle, the South Dakota license number and the engine and factory number of the same.

6-10-5 Insurance, Bond

Before any taxicab license is granted, or any pre-existing license renewed, applicant shall file with City Finance Officer a certificate or policy of insurance issued by

a responsible insurer, covering the vehicles to be operated by applicant, providing public liability insurance for injuries to one person in an amount not less than Three Hundred Thousand Dollars (\$300,000.00) and for any one accident not less than Three Hundred Thousand Dollars (\$300,000.00) and property damage insurance in an amount not less than Fifty Thousand Dollars (\$50,000.00), such coverage to be continuing, notwithstanding any recovery or settlement thereunder.

The Policy or certificate shall specify:

- (1) That the insurer shall be responsible for all liability of the applicant arising from the use of any motor vehicle as a part of applicant's for hire fleet in the City of Mobridge even though such vehicle is not described in the policy or certificate of insurance.
- (2) That violation of any of the provisions of the policy or certificate of insurance shall not relieve the insurer from liability thereunder to any third part claimant against applicant, including cases where applicant becomes bankrupt or insolvent.
- (3) That the policy or certificate shall not be modified or canceled without ten days actual notice to the City Finance Officer.

In lieu of the policy or certificate of insurance herein provided for, applicant may furnish corporate surety bond, issued by a surely company authorized to do business in the State of South Dakota, if it meets the foregoing requirements.

The policy, certificate of insurance or bond shall be approved by the City Council prior to issuance of the license.

6-10-6 Taxicab Marking

Every taxicab licensed under the provisions of this chapter shall have the name of the owner on the door. If any licensee operates more than one such taxicab, each taxicab shall be numbered with figures not less than two inches high, and no two vehicles shall bear the same number. All names and numbers herein provided shall be of such color and type as to be legible to one of normal eyesight at a minimum distance of twenty-five feet.

6-10-7 City License Plate

Every owner of any licensed vehicle shall forthwith place a number plate to be furnished by the City, upon the vehicle corresponding to the license, placed in a conspicuous place on the outside of such vehicle and shall keep the same plain and distinct at all times when used, during the continuance of such license, and upon the expirations of such license or cancellation, such person shall cause such number to be removed from said vehicle and shall not allow said vehicle to be used with such number thereon. No number plate shall be displayed on any public vehicle except the one for which it was issued.

6-10-8 Fares

Every taxicab operator licensed under the provisions of this chapter shall file with the City Finance Officer a schedule of fares to be charged for conveying passengers in taxicabs within the City of Mobridge, and shall make no changes in such fares without the approval of the City Council.

6-10-9 Transfer of License for Taxicabs

Any license for a taxicab may be transferred from one taxicab to another under the same ownership by the City Finance Officer, with the consent of the City Council, upon payment of a transfer fee of \$1.00 provided the second vehicle has been inspected as complying with this chapter.

6-10-10 Revocation of License

The City Council may revoke any license issued under the provisions of this Ordinance upon proof that the licensee has violated any provision hereof.

CHAPTER 11 – RESERVED

CHAPTER 12 TATTOOING AND BODY PIERCING ESTABLISHMENTS

6-12-1: DEFINITIONS.

The terms used in this chapter mean:

1. "Communicable disease," a disease which is capable of being transmitted from person to person;
2. "Minor," a person who is under the age of 18 years;
3. "Patron," a person who receives a tattoo or body piercing or has a tattoo removed;
4. "Permanent tattoo establishment," a building where tattooing and/or removal of tattoos is practiced on a year-round basis;
5. "Tattoo artist," a person engaged in the practice of tattooing and/or removal thereof;
6. "Tattoo establishment," the building or structure where tattooing and/or removal thereof is practiced;
7. "Tattooing," to puncture the skin of a person with a needle and insert indelible permanent colors through the puncture and leave permanent marks or designs;
8. "Tattooing area," within a tattoo establishment, the immediate vicinity where tattooing is performed;
9. "Body piercing," the placing of a permanent or temporary foreign object in a person's body, such as ears, nose, lips, genitals, nipples or parts thereof, for a decorative or other nonmedical purpose by a person not directly under the supervision of a licensed physician as defined by SDCL 36-4-11; the site or location, on the patron, of the body piercing;
10. "Body piercing area," within a body piercing establishment, the immediate vicinity where body piercing is performed;
11. "Body piercing artist," a person engaged in the practice of body piercing;
12. "Body piercing establishment," the building or structure where body piercing is practiced;
13. "Permanent body piercing establishment," a building where body piercing is practiced on a year-round basis;
14. "Certification" is defined as 60 hours of schooling or 12 months of apprenticeship under a tattoo/body piercing artist who has had an established business for no less than 14 months. (2005 ORD 814)

6-12-2: LICENSE REQUIRED.

No person shall engage in, conduct or carry on or permit to be engaged in, conducted or carried on in or upon any premise within the city a tattoo establishment or body piercing

establishment unless a license has been issued by the City which remains in effect in conformity with the provisions of this Chapter. (2005 ORD 814)

6-12-3: APPLICATION FOR LICENSE.

Each application for a license shall be upon a form provided by the City and shall be submitted to the City along with a check in the amount of \$100.00 for application fee and shall contain the following information:

1. A definition of service to be provided.
2. The location and mailing address of the proposed establishment.
3. The name and residence address of the applicant. If the applicant is a corporation, the name and address of the registered agent and of the officers. If the applicant is a partnership the names and residence addresses of each of the partners, including limited partners, and the address of the partnership itself, if different from the address of the tattoo establishment.
4. The last two previous addresses (if any) during the part three years immediately prior to the present address of the applicant.
5. Written proof that the applicant is over the age of 18 years.
6. Individual or partnership applicant's height, weight, color of eyes and hair and sex.
7. Copy of identification such as driver's license and social security card.
8. The history of the applicant in the operation of a tattoo establishment or similar business or occupation, including, but not limited to, whether or not such person has previously had a similar license revoked or suspended and the reason therefore.
9. The name, address, and certification of schooling or apprenticeship of each tattoo or body piercing Artist who is or will be employed in the establishment.
10. Each tattoo or body piercing artist must show proof of current Hepatitis and Tetanus vaccinations, and a clean TB test.
11. Any other information or identification necessary to substantiate these provisions.
(2005 ORD 814)

6-12-4: INSPECTION.

After the City receives an application, the City shall request that the tattoo and body piercing establishment be inspected by the Department of Health within 30 days, and annually upon renewal of the license. (2005 ORD 814)

6-12-5: MINIMUM SANITATION STANDARDS.

The establishment shall meet the minimum sanitation standards set forth by the South Dakota Administrative Rules, Chapter 44:12:01 and 44:12:02 before a license will be granted with the following exceptions or changes to the minimum standards.

- 1. Tattoo/Body Piercing establishments -- General provisions.** A tattoo/body piercing establishment must be a minimum of 60 square feet for one tattoo/body

piercing artist and 40 square feet for each additional artist. A tattoo/body piercing establishment must be physically separated from facilities used for practices other than tattooing/body piercing. A tattoo/body piercing establishment must be a permanent structure. Floors and walls of the tattooing/body piercing area must be smooth, easily cleanable, nonabsorbent, and in good repair. A removable floor covering over a carpet is acceptable. Ceilings above the tattooing/body piercing area must be smooth, easily cleanable, or removable and in good repair. A minimum of 30 foot-candles of light must be provided for applying the tattoo/body piercing and a minimum of 10 foot-candles for general lighting. (based on SDAR 44:12:01:03)

2. Required equipment for tattoo artists. A tattoo artist must have the following minimum equipment:

- (1) Fifteen liner tubes of whatever style and design preferred in sealed sterile envelopes;
 - (2) Fifteen shader tubes of whatever style and design preferred in sealed sterile envelopes;
 - (3) Fifteen needle bar setups with needles attached in sealed sterile envelopes or fifteen disposable needle bar setups with needles attached in sealed sterile packaging;
 - (4) One hundred disposable pigment containers;
 - (5) One hundred disposable latex or vinyl examination gloves;
 - (6) Two liters each of germicidal soap, isopropyl alcohol, and distilled water for prepping skin;
 - (7) Access to the applicable sterilization and sanitization measures in this chapter;
 - (8) Closed dustproof containers for the exclusive storage of instruments, dyes, pigments, stencils, and other equipment;
 - (9) Gauze and bandages
 - (10) One biohazard container when disposable needle setups are used.
- (based on SDAR 44:12:01:11)

3. Record of patrons. A tattoo/body piercing artist shall keep a record of each patron which includes name, address, age, consent form with medical inquiry, and the locations and description of tattoos/body piercing. This record must be available for inspection by the department of health and kept for a period of at least two years. Any inspection of these records for legal purposes will require a subpoena or search warrant. (based on SDAR's 44:12:01:15; 44:12:02:10)

4. Sterilization methods. Equipment requiring sterilization must be sterilized by using the method of steam pressure sterilization with at least 15 pounds of pressure per square inch for at least 30 minutes at a temperature of 250 degrees Fahrenheit in an autoclave. This must be certified by a chemical indicator which is attached to the autoclave bag and turns color when the required temperature has been reached. A tattoo/body piercing establishment owner or operator shall provide lab result slips which state that each autoclave has been bacteriologically tested monthly and has passed the test. Dry heat is not an acceptable method of sterilization for the purpose of this article. When the option of disposable needles is used, each needles setup will remain sealed until it is used on the patron. Each disposable needle is intended for single-use for one patron only and must be disposed of in a biohazard container. (based on SDAR 44:12:01:16)

5. Sterile equipment -- Packaging and storage. All sterile equipment and supplies must be stored in a closed dustproof container in such a manner as to prevent being contaminated. All needles and tubes must be packaged prior to autoclaving either individually or in quantities for individual tattoos/body piercing. Autoclave packages must be constructed so that the contents are visible without opening the package. Autoclave packages containing equipment which has been autoclaved must be dated with an expiration date. The expiration date may not exceed 30 days from the date autoclaved. Sterile equipment may not be used after the expiration date without being resterilized. A tattoo/body piercing machine must be stored in a manner that will prevent contamination. If disposable needles and/or tubes are used, they should be received in individually sealed, sterile, clear containers and remain sealed until they are used. In accordance with this section, they must be stored in a closed dustproof container in such a manner as to prevent being contaminated. A tattoo/body piercing machine must be stored in a manner that will prevent contamination. (based on SDAR 44:12:01:17)

6. Tube construction -- Sterilization required. All tubes, including the grips on the tube, must be either stainless steel, nickel-plated carbon steel, Lexan, or be disposable. The grips may also be constructed of anodized aluminum. Lead-bearing solder may not be used in the construction of the tubes. Tubes must be thoroughly cleaned and sterilized between patrons, or disposed of between patrons. (based on SDAR 44:12:01:19)

7. Disposal of contaminated products. Gauze, cotton swabs, or other single use products which are contaminated with body fluids must be disposed of in impervious double plastic bags which are securely sealed. When needles, tubes, or other multiple use products used in conjunction with the practice of tattooing/body piercing are disposed of, they must be sterilized and placed in an impervious rigid container which is securely sealed. Single use (or disposable) needles must be disposed of in a biohazard container. (based on SDAR's 44:12:01:34; 44:12:02:31)

(2005 ORD 814)

6-12-6: GRANTING OF LICENSE.

Upon proof of compliance from the Department of Health, the city shall grant the establishment a license which shall be effective for one year. (2005 ORD 814)

6-12-7: DENIAL OF LICENSE.

The City shall not issue such establishment a license if the Department of Health report finds that establishment does not meet the minimum sanitation standards or the applicant has knowingly made any false or fraudulent statement in the application for the license.

The city shall notify the applicant of the denial and the reasons for the denial in writing and send it to the applicant by certified mail. The applicant may request a hearing with the City Council by filing the request within ten days of receipt of the notice. (2005 ORD 814)

6-12-8: RENEWAL OF LICENSE.

An application to renew a license shall be made no later than 30 days before the expiration of the current license along with payment of \$100.00 for renewal fee. After an inspection is completed by the Department of Health which shows proof of compliance, the city shall renew the license for an additional year. (2005 ORD 814)

6-12-9: CHANGE OF LOCATION OF ESTABLISHMENT.

A license is not transferable to a new location until a transfer fee of \$100 has been submitted and an inspection showing that the establishment is in compliance with the sanitation standards. (2005 ORD 814)

6-12-10: REVOCATION OF LICENSE.

Any establishment granted a license under this chapter shall be subject to suspension or revocation by the city council for violation of any provision of this chapter, or applicable provision of the city ordinances, administrative rule, state law, or for grounds that should warrant the denial of the issuance of such license in the first instance. The suspension or revocation of a license shall be accomplished pursuant to a hearing held before the city council at which time evidence shall be received for the purpose of determining whether or not such license shall be suspended or revoked or retained. Following the hearing, if the license is suspended or revoked, the notification of and reasons for such decision shall be set forth in writing and sent to the licensee by means of registered or certified mail or hand delivery. Notice of such hearing shall be in writing, directed to, and delivered to the applicant by means of registered or certified mail or hand delivery at least ten days before such hearing. (2005 ORD 814)

6-12-11: PATRONS RESTRICTED.

a) Any establishment may not tattoo or remove a tattoo or body pierce a patron without first obtaining a signed consent. The consent must include a statement by the patron that he/she is free from infectious or contagious diseases in a communicable stage. This includes rashes, skin lesions, boils, and blood-borne diseases such as viral hepatitis B and human immunodeficiency virus infection. An establishment may not tattoo or remove a tattoo or body pierce a patron with evident skin lesions or skin infections or who is known or suspected to have an infectious or contagious disease in a communicable stage.

b) Minors may not be tattooed or body pierced or have a tattoo removed unless the minor's parents have signed a consent form authorizing the tattoo or removal or body piercing in the presence of an employee at the licensed establishment. No establishment may tattoo or remove a tattoo or body pierce a patron who is under the influence of alcohol or other mind-altering drugs.

c) The establishment shall conspicuously post a notice stating that it is illegal to tattoo or body pierce any person under the age of 18 without the parents' signed consent. (2005 ORD 814)

6-12-12: Liability Insurance

All licensees shall have at all times a valid certificate of insurance issued by an insurance company licensed to do business in the State of South Dakota indicating that

the licensee is currently covered in the tattoo/body piercing business by a liability insurance policy. The minimum limits of coverage for such insurance shall be:

1. Each claim, at least two hundred thousand dollars (\$200,000).
2. Each group of claims, at least five hundred thousand dollars (\$500,000).

Such insurance shall be kept in force during the term of the license and shall provide for notification to the City prior to terminating or cancellation. A certificate of insurance shall be filed with the City with each license application. (2005 ORD 814)

CHAPTER 13 - FIREWORKS

6-13-1: Application for permit to sell.

(1) All applications for permits to sell consumer fireworks shall be in writing to the Fire Chief, on forms provided by the City Finance Office, and shall be accompanied by a license issued by the State Fire Marshall, and a permit fee in the amount of \$250.00. The person must provide a valid permit for the sale of fireworks issued pursuant to title 18 of the United States Code.

(2) The application shall be made in duplicate, and the applicant shall ascertain and state in the application the proposed location of the fireworks stand applied for. The original of the application shall be retained by the Finance Office; and one copy thereof shall be sent to the Fire Chief.

3) The application shall state the name, address and telephone number of one or more responsible adults who will be in charge of and responsible for the fireworks stand during the period fireworks are sold, displayed or stored. The license shall be displayed at all times, openly and publicly, at the licensee's place of business. The license shall be issued within a reasonable time after application. (2005 ORD 816)

6-13-2: Age of Applicant

No person under the age of 21 shall be engaged in the business of handling or selling any display or consumer fireworks; provided, however, that a person less than 21 years of age but at least 18 years of age may handle and sell display or consumer fireworks at a licensed sales or storage location or may handle display or consumer fireworks at a permitted display site if he or she is under the direct supervision of a person 21 years of age or older. (2005 ORD 816)

6-13-3: Insurance

Within two (2) weeks of the notification of the tentative approval of the permit, the applicant shall furnish to the Finance Officer evidence of a public liability and property damage insurance policy in an amount of not less than \$50,000. for injury or death to one person, \$100,000. for all injuries or deaths resulting from one occurrence, and \$25,000. for property damage with riders attached to said policy designating the City of Mobridge as an additional insured thereunder. The applicant shall also furnish evidence of insurance coverage under a products liability insurance policy covering all merchandise sold by said applicants. The products liability insurance policy shall be in an amount of not less than \$100,000. for injury or death to one person, \$300,000. for injuries or deaths resulting from one occurrence, \$100,000. for property damage resulting from any one occurrence, and \$300,000. in the aggregate.

The Finance Officer shall issue the permit to the applicant upon the presentation to the Fire Chief of the evidence of a public liability and property damage insurance policy and a products liability insurance policy as hereinabove specified. (2005 ORD 816)

6-13-4: Penalties

Any person who knowingly provides false information on an application for the sale of fireworks as provided in this section shall be guilty of a class 2 misdemeanor. (2005 ORD 816)

Chapter 6-14 Building Movers

6-14-1 Definitions.

Terms used in this chapter mean:

(1) "Building mover" any person, firm, partnership, corporation, or association who engages in the business work of moving a building across a public property within the city limits.

(2) "Building moving" the moving of any house, building, structure, or any part or parts thereof, except structures or parts of structures less than 9 feet wide, 60 feet long, 13 feet total height when loaded, from one location to another when moving requires traveling upon, across, along, or over any street, avenue, highway, thoroughfare, alley, sidewalk, or other public ground in the city.

(3) "Agency" the, administrative official, police department, and the city street department. (2006ORD845)

6-14-2 License required.

No person except a building mover licensed by the City of Mobridge shall move any building, house or structure or part thereof across, along or over any public property. (2006ORD845)

6-14-3 License application.

Any person desiring to engage in the business of building moving must file a written application for a building mover's license in the finance office. (2006ORD845)

6-14-4 License fee.

The fee for the building mover's license shall be \$25.00 and the license shall expire on December 31 of each year. The applicant for a building mover's license shall file with the city finance officer a certificate of building movers insurance which indemnifies the public against loss by negligence of the applicant or its agents in the sum of not less than two hundred fifty thousand dollars (\$250,000.00) to anyone person and five hundred thousand dollars (\$500,000.00) in anyone accident, for both bodily injury and property damage, and the form and content of such policy shall be approved by the city council. The policy shall be issued by an insurance company approved by the city council. The applicant, if a license be granted, shall conform to all requirements which are now or may be hereafter established by the city council and shall promptly repair and make good to the satisfaction of the City Administrator all damage to any pavement, sidewalk, crosswalk, hydrant, street, alley or other public property which results from moving any building or in connection with the moving thereof; and that the licensed building mover will indemnify and save harmless any person or persons by reason of negligence of the licensed building mover or applicant or applicant's employees or agents in connection with the moving of any building or the use of any public street or ground for that purpose. (2006ORD845)

6-14-5 Revocation.

A building mover's license may be revoked at any time if the mover violates the provisions of this chapter or rules established by the agency, or conducts this business in a careless or reckless manner, or refuses to make prompt payment of any sums due the city from him under any of the provisions of this chapter or whose insurance as required herein has been cancelled or otherwise terminated. (2006ORD845)

6-14-6 Transferability.

No license or permit issued pursuant to this chapter shall be transferable. (2006ORD845)

6-14-7 Permits required.

No person shall engage in building moving, unless and until a moving permit has been obtained. (2006ORD845)

6-14-8 Restrictions on moving through streets.

All movement of the building once started shall continue until completed and no buildings shall be parked along the route unless deemed an emergency and approved by the Police Chief. The Policy Chief may require police escorts, temporary removal of traffic devices, or may restrict or specify the day and hours during which the moving operation must be accomplished. (2006ORD845)

6-14-9 Escorts.

Movers shall provide a front and rear escort with revolving lights for all movements. (2006ORD845)

6-14-10 Flags.

Red or orange flags, 12 inches by 12 inches, must be fastened to the farthest rear comers of the moving structure. (2006ORD845)

6-14-11 Reporting damage.

The building mover shall immediately report any damage done by the moving operation to any street, sidewalk, curb, utility equipment, tree, sign, or other public or private property to the city. (2006ORD845)

TITLE 7-OFFENSES

CHAPTER 7-1 - ALOHOLIC BEVERAGES

CHAPTER 7-2 - OFFENSES AGAINST PUBLIC WELFARE

CHAPTER 7-3 - OFFENSES AS TO PUBLIC PLACES

CHAPTER 7-4 - OFFENSES AS TO PROPERTY

CHAPTER 7-5 - GAMBLING

CHAPTER 7-6 - ANIMALS

CHAPTER 7-7 - MINORS

CHAPTER 7-1 ALCOHOLIC BEVERAGES

7-1-1 Purpose

The purpose of this Ordinance is to implement the provisions of SDCL Title 35, including the fees to be changed for each of such places.

7-1-2 Classification and Fees

The classifications and fees for sale of alcoholic beverages shall be set by resolution and published in the office of the Finance Officer and if not so set shall be the same as set by SDCL Title 35.

7-1-3 Limitation of Number of Licenses

The number of on sale licenses issued shall not exceed three for the first 1,000 of population and not exceed one of such licenses for each additional 1,000 population or fraction thereof, provided, however, the number of such licenses shall not exceed the total number of such licenses allowable or issued prior to July 1, 1981. The quotas established in this section do not apply to the licenses issued pursuant to SDCL 35-4-2 (16) and (17)

7-1-4 Application

The form of application, notice of hearing thereon and approval thereof shall be as required by SDCL Title 35, as amended.

7-1-5 Restrictions/Minors

No Licensee shall sell any alcoholic beverage to anyone under the age of 21. Persons under the age of 21 shall not be allowed to consume any alcoholic beverage nor shall they be allowed to loiter on licensed premises. The licensee shall not sell alcoholic beverages to persons already intoxicated.

7-1-6 Times When On Sale Service Prohibited

All on sale licensee shall be allowed to sell, serve or allow to be consumed on the premises covered by the license, alcoholic beverages, including malt beverages at the times as stated in SDCL Title 35, except as herein otherwise stated.

Any individual or corporation holding a valid South Dakota on-sale alcoholic beverage license and who shall qualify and secure a valid South Dakota special Sunday sales license under SDCL 35-4-2.1 for the right to sell, serve or allow to be consumed alcoholic beverages between the hours of 11:00 o'clock a.m. and 12:00 o'clock midnight on Sunday shall be permitted to operate within the City provided that said licensee comply with the requirements of SDCL 35-4-2.1 and pay to the City an annual license fee that is set by resolution.

7-1-7 Times When Off Sale Service Prohibited

All off sale licensees shall be allowed to sell alcoholic beverages covered by the license, at the times as stated in SDCL Title 35, except as herein otherwise stated. All off-sale licensees as defined in SDCL 35-4-2 (3), (16), (17), (17A) and (20) shall be allowed to sell malt beverages on Sunday between the hours of 7:00 o'clock a.m. and 12:00 o'clock midnight on Sunday. No other off-sale licensees licensed under SDCL Title 35 shall be allowed to sell alcoholic beverages on Sunday.

7-1-8 Location of Premises

No application for "on-sale and/or "off-sale" license for the retail sale of intoxicating liquor shall be approved unless said business is located on property abutting Main Street south of Grand Crossing Boulevard or on Grand Crossing Boulevard between the east City limits and the north City limits of said Grand Crossing Boulevard. Provided, however this amendment shall not affect any location of an existing "on-sale" or "off-sale" license on the effective date of this amendment or the subsequent renewal of a license for such location.

7-1-9 Regulation, Place and Manner Off Sale License

No off sale licensee shall permit any intoxicating liquors to be consumed in or about the Sale licensed premises and no off sale dealer shall be permitted to make any deliveries of intoxicating liquor outside of the premises described in his or her license; except said licensee may make a sale and delivery through a pass through door or window providing such pass through door or window shall be located fronting on a public street, and shall be not more than 40 feet from the public street and shall be well lighted at the pass through entrances and for a distance of 25 feet therefrom. All pass through entrances shall be subject to the approval of the City Council prior to the use thereof as herein provided, and the City Council may, at its discretion, at any time order any pass through door or window closed and the licensee to discontinue the use thereof as a pass through for the delivery of beverages permitted to be sold under an off sale license.

7-1-10 Penalty

Any person, firm or corporation violating any provisions of this Chapter shall be deemed Guilty of a misdemeanor, and shall upon conviction thereof, be punished by a fine of \$200.00 or imprisonment in the County Jail not to exceed 30 days, or by such fine and imprisonment. That any violation of this Chapter shall be sufficient cause for the City Council to suspend for a period of time not exceed one year, or to revoke the license of the person, firm or corporation found guilty of such violation. Whenever any person shall be a clerk, servant, agent or

employee of any other person, firm or corporation and violates any of the provisions of this Ordinance, he or she shall be guilty as a principal, and shall be punished as herein provided; and the principal shall be held liable for the act of his or her clerk, servant, agent or employee. Each and every violation of the provisions of this Ordinance shall constitute a separate offense.

7-1-11 SPECIAL PERMIT LICENSES

Upon proper application to the City, pursuant to SDCL 35-4, the City shall be entitled to issue special event beverage licenses to educational, fraternal or veterans' organizations and to certain other licensees. The fees to be charged for the special events licenses shall be set by resolution, which fee must accompany the application.

CHAPTER 7-2 OFFENSES AGAINST PUBLIC WELFARE

7-2-1 Disorderly Conduct

No person shall act in any unseemly manner or way tending to degrade and unsuited to the promotion of the morals, health or comfort of the inhabitants of the City.

7-2-2 Disturbing the Peace

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

7-2-3 Assault and Battery

It shall be unlawful for any person or persons to commit an assault or an assault and batter upon any other person within City limits. Assault and assault and batter shall be determined, defined and limited as provided by the statutes of the State of South Dakota.

7-2-4 Carrying Concealed Weapons

No person shall carry concealed about his or her person any pistol or other firearm, sling shot, brass knuckles or knuckles of other material, or any sand bag, dagger, bowie knife, dirk knife, or other dangerous or deadly weapon, or any instrument or device which when used is likely to produce death or great bodily harm. Any peace officer may wear and carry such weapons, as may be necessary and proper for the discharge of his or her official duties.

7-2-5 Resisting, Escaping from or Assaulting an Officer

No person shall refuse to obey the command of any police officer given in the performance of his or her official duties, nor shall any person resist or obstruct any police

officer in the performance of any official duty, nor in any way aid or assist any person to resist or escape from any such officer, nor assist any person to escape from any lawful confinement. No person shall assault or strike any police officer, nor in any way interfere with a police officer in the discharge of his or her duty.

7-2-6 Impersonating Officer

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

7-2-7 Indecency

No person shall appear in any public place in the state of nudity, in indecent dress or in dress intended to deceive others as to his or her sex, nor make any indecent exposure of his or her person. No person shall exhibit, show or perform any indecent, immoral, or lewd show, act, play, motion picture or other representation in any theater or place of public resort.

7-2-8 Obscene Written and Printed Matter

No person shall exhibit, publish, pass, sell or offer for sale, or have in his or her possession with such intent, any obscene, lewd or lascivious books, pamphlets, papers, magazines, writings, advertising circulars, cards, prints, letters, pictures, drawings, films, or other immoral, lewd or indecent representations or publications.

All other obscene matter is declared to be a nuisance and any police officer is authorized to seize any such obscene matter found in the possession of any person arrested for a violation hereof, and upon conviction of a violation of this section, the court shall order as a part of the judgment in addition to the other penalties prescribed, that the officer having the custody of such obscene matter shall destroy the same.

7-2-9 False Emergency Alarms Prohibited

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

7-2-10 Displaying License Unlawfully

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

7-2-11 Discharge of Weapons

It shall be unlawful for any person, except a police officer in the performance of his or her duties, or any person granted a special permit in writing from the Chief of Police of the City, to discharge any firearm, air rifle, or bow and arrow, or slingshot of any device of like character, within the limits of the City, and within one mile of the corporate limits of the City.

7-2-12 Fireworks

No person shall sell, shoot off or discharge fireworks of any kind or substances designed or intended for pyrotechnic display within the limits of the City; except fireworks can be sold within 100 feet of City Limits where it is zoned as highway commercial, and upon approval by the fire chief and City Council. A pyrotechnic display of fireworks may be held within the limits of the City under such rules, regulations and supervision and such times as may be designated by resolution of the City Council.

Any fireworks remaining unfired after a public display or the selling of fireworks is concluded shall be immediately disposed of or stored by the retailer in a manner which is safe for that particular type of firework remaining.
(2005 ORD 812)

CHAPTER 7-3 OFFENSES AS TO PUBLIC PLACES

7-3-1 Gatherings on Streets Limited

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

7-3-2 Crowds Obstructing 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 such a manner as to obstruct free passage thereon, or to annoy other persons passing along the same, and any police officer is authorized to disperse the crowd or group or to cause the removal of any person violating the provisions of this Section and to summarily arrest any person in case of refusal to obey any reasonable direction given by such officer for the purpose of clearing the way.

7-3-3 Hindering or Molesting Passerby

No person shall upon any street, or at the entrance of any building on any such street, alley or sidewalk, wrongfully hinder, impede or molest any passerby, or use any rude, obscene, vulgar, indecent or threatening language to any passerby, or by any indecent act, gesture or noise molest, annoy or insult or put fear in any person passing or attempting to pass on such street, alley or sidewalk or through the entrance to such building.

7-3-4 Goods on Sidewalk

No person shall place any goods or merchandise for sale or exhibition upon any sidewalk, except that, for the purpose of loading and unloading, such articles may be placed upon the outer sidewalk for such time as may be necessary to load or unload or obstruct the same, but in no instance shall any such articles be left upon the sidewalk in the night time without the written permission of the Mayor.

7-3-5 Broken Seal

It shall be unlawful for any person to have in his or her possession any open container or package containing any intoxicating liquor upon any public place.

7-3-6 Securing a Permit to Sell Liquor Temporarily

Upon application and approval by the city council a temporary permit may be issued to an organization, group, or individual to sell and allow alcoholic beverages to be consumed on a limited basis upon public property. Such permit shall state the purpose, place and duration of the permit.

Any person violating the provisions of this Ordinance shall be subject to a fine set by resolution or 30 days imprisonment or both such fine and imprisonment.

7-3-7 Smoking In City Owned Buildings

No person shall smoke in any city-owned building. (1999ORD755)

CHAPTER 7-4 OFFENSES AS TO PROPERTY

7-4-1 Damaging Signs

No person shall deface, remove, change, mar or in any way interfere with or obliterate either wholly or in part any sign, signboards, or card placed, posted, extended or erected by the City.

7-4-2 Traffic Signs

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

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

7-4-3 Destroying Trees and Plants

No person shall willfully injure, destroy or deface any tree, shrub, plant, or grass in any parking lot of park, or on the property of another.

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

7-4-4 Electric Light Posts and Apparatus

No person shall interfere with, injure, break or jar any electric light, telephone, telegraph or fire alarm system, post or pole or apparatus in any manner, or climb any

telegraph, telephone, electric light or fire alarm pole without being properly authorized to do so.

7-4-5 Gas, Water or Electrical Pipe or Wire

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

7-4-6 Interference with City Engineer, Instruments, Stakes

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

7-4-7 Interference with City Property

No person shall climb or in any manner interfere with any building, water tower, bridge or structure belonging to the City, without first being authorized to do so by the City, and no person shall in any manner injure or deface any such structure.

7-4-8 Destroying Property

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

7-4-9 Fences

No person, firm or corporation shall hereafter construct, erect or maintain or cause to be constructed, erected or maintained in the City any fences of any character or material, exceeding seven feet in height, about the sidewalk or the surface of any lot of parcel of ground; provided, that any such fence so constructed, erected or maintained shall not exceed five feet in height when the same is within forty feet of the street line, and provided further, that no fence or any part thereof shall be constructed of barbed wire.

7-4-10 Certain Advertising Methods Prohibited

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

No person shall paint, print, write, post, or in any manner place upon any sidewalk, pavement or crosswalk in the City, any letters, words, figures, sign, pictures, notices, or advertisements of any kind.

7-4-11 Graffiti prohibited:

It shall be unlawful for any person to:

- (a) Definition: Graffiti means any writing, printing, marks, signs, symbols, figures, designs, inscriptions or other drawings which are scratched, scrawled, painted, drawn or otherwise placed on any exterior surface of a building, wall, fence, sidewalk, curb or other permanent structure on a public or private property which has the effect of defacing the property.
- (b) No person shall intentionally place graffiti on any surface located on public or private property.
- (c) No owner of any property may allow graffiti to be placed on any external surface on the owner's property. The owner of any such property shall remove graffiti, which has been placed thereon within fifteen days after having received written notice from the Police Department, or a waiver is signed allowing the police department to remove the graffiti. If the property owner does not comply, the City may institute nuisance abatement procedures and recover the cost of the removal, pursuant to legal remedies available.
- (d) Any person violating any of the provisions of this section shall be subject to the maximum penalties allowed for a class 2 misdemeanor and the court shall order restitution for damages or loss caused by the offense. (2005ORD808)

CHAPTER 7-5 GAMBLING

7-5-1 Gambling Prohibited

No person shall in the City, or within one mile of the outer boundaries thereof, play at roulette, chuck-luck, poker, black jack, twenty-one or any other gambling game, dice game, or game of chance upon which money or any articles of value is staked, or to resort to, attend, or be present at any place where such gambling games or games of chance are carried on.

7-5-2 Gambling Apparatus Nuisance

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

7-5-3 Allowances

Games of chance authorized by the State of South Dakota are not subject to the provisions of this ordinance.

CHAPTER 7-6 ANIMALS

7-6-1 Cruelty to Animals

No person shall cruelly or immoderately beat, torture or injure any domestic animal, or overload any working animal, nor shall any person willfully or negligently mistreat or abuse, or treat or neglect in a cruel or inhuman manner any animal.

7-6-2 Animals Prohibited in City

It shall be unlawful for anyone to house or to permit to run at large any domestic fowl, horses, goats, pigs, sheep, cattle, or any animal with a propensity to be dangerous within the City Limits.

7-6-3 Responsibility for Animals

- (a) No person shall create or maintain any condition or operate any equipment or keep any animal, fowl, pet, or insect under his jurisdiction in such a way that such condition or operation causes or is likely to cause the transmission of diseases from animals or insects to man
- (b) No owner, keeper, caretaker, or attendant of an animal shall allow an animal to defecate on public or private property other than his own. If such animal does defecate upon public or private property the owner, keeper, caretaker, or attendant must immediately and thoroughly clean the fecal matter from such property.
- (c) Animals used in parades or involved in law enforcement are exempt from this inspection. (2003 ORD 797)

CHAPTER 7-7 MINORS

7-7-1 Loitering of Minors Prohibited

It shall be unlawful for any minor under the age of seventeen years to loiter, idle, wander, stroll or play, ride or be in any motor vehicle, in or upon the public streets, highways, roads, alleys, parks, public buildings, places of amusement and entertainment, vacant lots, or other unsupervised places, or to be or remain in any dance hall, restaurant, café, theater, or other public place between the hours of 11:00 o'clock p.m. and 6:00 o'clock a.m. on Sunday through Thursday nor between the hours of 12:00 o'clock, midnight, and 6:00 o'clock a.m. on Fridays or Saturdays, official City time; provided, however, that the provisions of this section do not apply to a minor accompanied by his or her parents, guardian or other adult person having the care and custody of the minor, or where the minor is upon an emergency errand or legitimate business, directed by his or her parent, guardian or other adult person having the care or custody of the minor, said authorization shall be on file with the City Police Department or in the personal possession of the minor. (2005ORD821)

7-7-2 Responsibility of Parents

It shall be unlawful for the parent or guardian or other adult person having the care and custody of a minor who has not reached the age of seventeen years to knowingly permit such minor to loiter, idle, wander, stroll or play or ride or be in any motor vehicle in or upon the public streets, highways, roads, alleys, playgrounds or other public grounds, public places and public buildings, places of amusement and entertainment, vacant lots, or other unsupervised places, or to be or remain in any dance hall, restaurant, cafe, theater, or other public place between the hours of 11:00 o'clock p.m. and 6:00 o'clock a.m. on Sunday through Thursday nor between the hours of 12:00 o'clock, midnight, and 6:00 o'clock a.m. on Fridays or Saturdays, official City time; provided, however, that the guardian or other adult person having the care and custody of the minor, or where the minor; is upon an emergency errand of legitimate business directed by his or her parent, guardian or other adult person having the care and custody of the minor. (2005ORD821)

7-7-3 Responsibility

It shall be unlawful for any person, firm or corporation operating places of amusement and entertainment, restaurants, cafes, theaters or other public places, to permit minors under the age of seventeen years to enter or remain in such place of amusement and entertainment, restaurant, café, theater, or other public place during the hours prohibited under this Chapter, or owner or operator of any motor vehicle to permit or allow any minor to be in or ride in such motor vehicle during the hours prohibited by this chapter; provided, however, that the provisions of this Section do not apply when the minor is accompanied by his or her parent, guardian or other adult person having the care and custody of the minor. (2005ORD821)

7-7-4 Penalty

It shall be the right of any authorized officer or person to detain or take into custody any minor violating the curfew and to keep said minor detained until his or her parent, guardian or custodian is notified when said minor may be released upon the giving of a promise by the minor and his or her parent, guardian or custodian that such minor together with his or her parent, guardian or custodian will appear at a stated time before the proper authority to answer to the charges.

Once a minor has been detained for violating curfew and the minor is being held until a parent, guardian or custodian can be notified to pick the minor up, the arresting officer shall give the parent guardian or custodian a reasonable time to pick up the minor and if the minor is not picked up within a reasonable time then there shall be assessed against the parent, guardian or custodian a penalty of \$20.00 per hour payable to the City of Mobridge for the care and custody of the child. Such penalty to be assessed along with any other court penalties assessed by the court.

Any person, parent, child, guardian, or custodian violating any provisions of this chapter shall be deemed guilty of a Class 2 Misdemeanor, and shall upon conviction thereof, be punished by a fine of not more than \$200.00 or imprisonment not to exceed thirty days or by both such fine and imprisonment. Upon a first offense under this chapter, only a money fine shall be imposed against the person deemed guilty of the misdemeanor and upon a second offense, the court shall impose a fine and a jail term.

TITLE 8 – CONTRACTOR CODE

CHAPTER 8-1 - LICENSES AND PERMITS

CHAPTER 8-2 - PLUMBING CODE

CHAPTER 8-3 - ELECTRICAL CODE

CHAPTER 8-4 - GENERAL CONTRACTOR CODE

CHAPTER 8-1 LICENSES AND PERMITS

8-1-1 LICENSES

No individual or company shall engage in the business of plumbing, electrical work, or contract work consisting of, but not limited to, cement or concrete contracting, either flat, form, or masonry contracting; water or sewer line installer; dirt excavator; or sidewalk or street pavement improvements or repairs, within the city of Mobridge unless licensed as such under the provisions of the state of South Dakota where necessary, and the codes of this chapter. The licenses shall not be transferable. A fee of fifty dollars (\$50.00) shall be paid to the city finance officer and the license shall expire December 31st of each year.

8-1-2 Insurance and Bonds

Before any contractor does work for the city or within the city for the general public as listed in section 8-1-1 he/she shall file with the city finance officer a certificate of insurance showing proof of workman's compensation, where applicable, and public liability insurance with a combined single limit of \$500,000.

The contractor must also furnish a bond in the sum of one thousand dollars (\$1,000.00), conditioned for the faithful performance of all duties required by this ordinance or any rule or regulation of the city council. Said contractor agrees to repay the city, or those affected, all damages sustained by reason or neglect of work done or careless guarding of excavations made, or failure to put all streets or public places opened, in as good condition as before breaking up or opening up same or for any other causes growing out of the negligence or carelessness of such licensee or their employee.

CHAPTER 8-2 PLUMBING CODE

8-2-1 Code and Amendments

The National Standard Plumbing Code that was adopted by the City and the rules and regulations therein provided shall be, and the same are hereby changed and amended to at all times comply with changes and amendments officially adopted by the State Plumbing Board under Chapter 36-25 of the South Dakota Compiled Laws, as amended.

In addition to the pipe provided for in the national plumbing code for drainage, waste and vents acrylo nitrile butadiene serene pipe may be used in all new construction or replacement.

8-2-2 Title and Scope

A. Title. South Dakota State Plumbing Code, may be so cited and referred to in this Chapter as the "Code."

B. Scope. The provisions of this Code shall apply to governing plumbing as defined in the Code, including the practice, materials and fixtures used in the installation, maintenance, extension and alternation of all piping, fixtures, appliances and appurtenances, in connection with any of the following: sanitary drainage or storm drainage facilities, ventilating system, and the public or private water supply systems within or adjacent to any building or other structure or conveyance; also, the practice and materials used in the installation, maintenance, extension or alteration of storm water or sewage system of any premises or their connection with any point of public disposal or other terminal.

C. Facilities. It is recognized that certain facilities in or adjacent to public streets are referred to in this Code, only a portion of which is under the ownership or control of the owner or occupants of the building or premises to which this code applies.

D. Administration and Enforcement. The administration and enforcement of this Code shall be the duty of the Water Superintendent and /or Building Official and representatives of the State of South Dakota as provided in said Code, who are hereby authorized to take such action as may be reasonably necessary to enforce the provisions and purposes of this Code. Such persons may be appointed and authorized as assistants or agents of such administrative authority as may be necessary to carry out the provisions of this Code.

8-2-3 Duties of Building Inspector

It shall be the duty of the Building Inspector to see that the construction and maintenance of the plumbing, draining and ventilation of all buildings in the City shall hereafter conform to and comply with the rules and regulations established by this Ordinance; to pass upon all plans submitted, and to keep a record of all work, including all notices served and applications received, permits granted, violations of these regulations and all other matters which may pertain thereto. The Building Inspector shall inspect all plumbing in course of construction, in new or old buildings, and shall see that the rules and regulations and regulations of the City Council are enforced. The Building Inspector shall approve or reject all plans within twenty-four hours, when practicable, and in no case to delay to do so for more than five days.

8-2-4 Supervision

All plumbing work in the process of construction, alteration or repair, shall be under the supervision of the Building Inspector, who is hereby empowered to stop such work when the same is being done contrary to the provisions of this Ordinance, provided, that whenever questions arise in regard to renewing or changing pipes or fixtures not covered by this Chapter, the Building Inspector is in such cases authorized to require such work to be done as he or she shall deem best and furnish specifications therefore.

8-2-5 Access

The officers and employees of the Department of Building and Building Inspector shall have access to all buildings for the purpose of examining and carrying into effect all ordinances relating to health and ventilation.

8-2-6 Test

The Building Inspector may, if he or she deems it necessary, before approving any plumbing, required either of the following tests: (1) by plugging all openings and filling with water to the highest point. (2) or by a pressure of air of not less than 15 pounds to square inch; such test to be made in the presence of some authorized officer or employee of the Building Inspector, and it shall include soil, waste, ventilation pipes, brass ferrules and soldering nipples in connection with the same, to finished line or face of the floor or sidewalk.

8-2-7 Permits

A. Issuance of Permit: No plumbing work, unless excepted in this Section, shall be undertaken prior to the issuance of a permit therefore by the Building Official. A permit shall be issued to a licensed plumber, except as provided in paragraph B of the Section.

B. Exception: Any permit required by this Code may be issued to any person to do any work regulated by this Code in any structure owned by the applicant, where the plumbing work is to be done exclusively by the owner and the materials purchased by said owner for work on said property.

In addition to the exceptions and provisions contained in the National Plumbing Code Regulations, permits will not be required for the removal of stoppage in oil or waste pipe or for replacing broken fixtures, providing such fixtures conform to the regulations contained in this Chapter or Code, nor for replacing tanks or faucets or repairing leaks in waste pipes nor for the repair of water supply pipes or tanks.

C. Application for Permit: Application for permit shall be made on suitable forms provided by the Building Official. If application be for tapping water or sewer mains, the application must be accompanied by the fee provided for such tapping in Title 11 of this Ordinance.

8-2-8 Notice to Inspector

Any plumber or person doing work under the provisions of this Code shall, when work is prepared for inspection as provided in this Code, notify the Building Official that such inspection is required, giving the location of premises, the time such work will be ready for inspection. The Building Official shall inspect such work within a period of two work days after notification that such work is ready for inspection.

CHAPTER 8-3 ELECTRICAL CODE

8-3-1 General

The administration and enforcement of this Ordinance shall be the duty of the Zoning Officer who is hereby authorized to take such action as may be reasonable necessary to enforce the purposes of the City's Electrical Code which is the same as the National Electric Code as adopted by the National Fire Protection Association. Such persons may be appointed and authorized as assistants or agents of such administrative authority as may be necessary to carry out the provisions of the Code.

8-3-2 Scope

The provisions of this Code shall apply to govern electrical work as defined in the Code, including the practice, materials and fixtures used in all new installations, electrical conductors, fitting devices and fixtures for light, heat and power service equipment and all equipment used for power supply to radio and television receiving systems and amateur radio transmission systems and buildings and structures; and all alterations and/or extensions to existing wiring systems and within or adjacent to any building or other structure or conveyance or on any premises within the limits of the City.

8-3-3 Definitions

The following terms, as defined herein, and as used in the Code are as follows:(other terms are defined in Article 100 of the National Electrical Code, as adopted)

1. **Building Service Equipment.** The mechanical, electrical and elevator equipment, including piping, wiring, fixtures and other accessories, which provide sanitation, lighting, heating, ventilating, fire fighting and transportation facilities essential for the habitable occupancy of the building or structure for its designated use and occupancy.

2. **Electrical Equipment.** All installations of electrical conductors, fittings, devices and fixtures within or on public and private buildings.

3. **Electrical Service Equipment.** The equipment located at point of entrance of supply conductors to a building which constitutes the main control of supply and means of cut-off of electricity, including circuit- breaker switches, fuses and electrical accessories.

8-3-4 License- Electricians

If said electrician has provided the State Electrical Board a surety bond and proof of liability insurance as required by SDCL 36-16, such electrician shall not be required to post the bond of said amount hereinabove referenced, but shall provide proof of their State license to the City Council.

CHAPTER 8-4 GENERAL CONTRACTORS

8-4-1 Definition

It shall be unlawful to engage in business for the city as a general contractor without first having obtained a license there as herein provided.

The term "General Contractor" shall mean and include anyone engaged in the business of cement or concrete contracting, either flat, form, or wall work, or as a masonry contractor; or as a carpenter contractor; or as a general building contractor; water and sewer installer; dirt excavator; or any person engaged in the construction, alteration, or repair of buildings or other structures, or sidewalk or street pavements.

Engaging in the above-mentioned professions in the municipality for which a permit is required under the ordinances of the municipality shall be construed as doing business as a contractor in the municipality.

8-5-2 Subcontractors

Any person, firm, or corporation doing business as a subcontractor shall be construed as engaged in the business of a general contractor for which a license is required by this ordinance.

8-5-3 Regulations

It shall be the duty of all general contractors to comply with all ordinances relating to the construction of building or other structures, the construction of streets, sidewalks, masonry items, water or sewer line installation, or repair of excavation services, and all laws local, state, or national (federal) pertaining to or regulating the activities engaged in.

8-5-4 Revocation

Any contractor's license may be revoked by the mayor or council for repeated violations of any ordinance relating to the construction of buildings, the use of streets, the replacement of streets, sidewalks or parkways, or any other ordinance relating to the work performed by such contractor. Such revocation may be in addition to any fine imposed for violating this ordinance.

8-5-5 Insurance and Bonding

No permit shall be issued for the construction of a building or structure in the city, or for the repair or alteration of the exterior or interior of any building or structure, cement work, water or sewer repair work without a certificate or other proof showing the contractor carries workman's compensation, where applicable, and public liability insurance with a combined single limit of \$500,000.

Before any contractor doing any work for the city on any street or highway, or on any building or premises owned by the city commences work, he or she shall file with the clerk a certificate of other proof showing that he carries workman's compensation and public liability insurance as required by the ordinances and the terms of his contractor. Furthermore, each said contractor shall furnish a bond in the sum of one thousand dollars (\$1,000) and such proof shall be kept on file at City Hall.

TITLE 9 – STREETS, SIDEWALKS, AND PUBLIC PLACES

CHAPTER 9-1 - NAMES, NUMBERING, CURB LINES AND GRADES

CHAPTER 9-2 - SNOW REMOVAL ON SIDEWALKS

CHAPTER 9-3 - USE OF STREETS

CHAPTER 9-4 - MOVING BUILDINGS ON STREETS

CHAPTER 9-5 - EXCAVATION IN PUBLIC PLACES

CHAPTER 9-6 - SIDEWALKS

CHAPTER 9-7 - PUBLIC LIBRARY

CHAPTER 9-8 – PARKS AND RECREATION

CHAPTER 9-9 - CEMETARIES

CHAPTER 9-10- PUBLIC AIRPORTS

CHAPTER 9-11- WIDTHS

CHAPTER 9-12- MOTOR VEHICLES

CHAPTER 9-13 - TREES

CHAPTER 9-1 NAMES, NUMBERING CURB LINES AND GRADES

9-1-1 Names of Streets and Avenues

Names of the streets and avenues in the City of Mobridge shall be known and designated by those names shown upon the several plats and divisions and subdivisions of the City of Mobridge within its corporate limits and as may have been changed by Ordinance of the City of Mobridge and as now are shown upon the map and plat now on file in the office of the City Finance Officer of the City of Mobridge which said plat is hereby by reference adopted and the names of the streets and avenues as shown there on are hereby adopted and designed as the names of the said streets and avenues. All streets and avenues need to correspond with 911 system.

That the present City Plat is hereby amended to change the names of the avenues and streets on the official plat adopted in the original Ordinance of the City of Mobridge so as to change the designation of Vermont Avenue to Twelfth Avenue East; Kansas Avenue to Thirteenth Avenue East; Arizona Avenue to Fourteenth Avenue East; Nevada Avenue to Fifteenth Avenue East; Colorado Avenue to Sixteenth Avenue East and the avenue one block east of Sixteenth Avenue East to be named Seventeenth Avenue East; the road running from Revheim Road along the southern edge of the City of Mobridge to the drive-inn theater be named Twentieth Street East; that road from Ninth Avenue East to U.S. Highway 12 on the east boundary of Mobridge be named Airport Road and the road on Tenth Avenue West north of Twentieth Street West of the City Water Plant be named Water Plant Road.

9-1-2 Buildings Numbered

All houses or buildings fronting on any public street or avenue within the City, shall be numbered in conformity with the provisions of this Ordinance.

Buildings on the east side of Main Street or of any Avenue shall receive even numbers and buildings on the west side thereof shall have odd numbers; buildings on the north side of any street shall receive even numbers and buildings on the south side shall receive odd numbers.

9-1-3 Numbering- Where to Commence

The numbering on all houses and buildings on Main Street and on all avenues shall commence to number from Railway Street and shall number north and south from said Railway Street as the case may be, as far as said streets and avenues may extend or may hereafter extend, commencing with the number one at Railway Street; at the number one hundred one block north or south of Railway Street, and so on, increasing the numbers one hundred for each block.

9-1-4 Numbering for Streets

That Main Street as laid and platted is hereby designated as the place from which to begin numbering all houses and building on streets both East and West thereof; the first number in the first block on each street to be number "one" and the first number in the second block being "one hundred one", and so on increasing one hundred for each bock east and west of Main Street.

9-1-5 Numbering of Avenues

All avenues shall be numbered in the same manner as they would be if full blocks existed as they do exist on Main Street in said City; that is all avenues commencing north and south of the intersection of Main Street and Railway Street shall take as the starting number of said avenue the corresponding number as provided for Main Street.

9-1-6 Vacant Property

Vacant lots fronting on said streets and avenues shall be entitled to their proper numbers, allowing each twenty-five foot space fronting on said streets and avenues to receive a separate number as closely as said distance can be adhered to.

9-1-7 Posting Numbers

All owners of buildings, business houses and dwelling places be and they are hereby required to publicly post upon some conspicuous portion of such building, business house or dwelling place, its proper number under this Ordinance.

9-1-8 Curb Lines

The curb lines in the City heretofore established by ordinances of the City and as shown and set forth on plat marked "Map A - Curb Lines" on file in the office of the City Finance Officer, as of the date of the adoption of this ordinance, are hereby established and adopted as the official curb lines in the City and Map A curb lines are hereby incorporated herein by reference with the same full force and effect as though set forth at length herein.

9-1-9 Grades

The grade of the following described streets at the curb line 10 ½ feet from the property line on Main Street, First Street East, Second Street East, Second Street West, Third Street East, Third Street West, Fourth Street East, and Fourth Street West, and on First Avenue East from First Street East to Third Street East, and at the curb line 13 feet from the property line on First Avenue East from Third Street East to Grand Crossing Avenue, and on First Avenue West from Second Street West to Grand Crossing Avenue, shall be and is hereby fixed and established and kept on file at City Hall.

The datum used is measured up from a point or elevation located 100 feet below the top of the present sidewalk at the northeast corner of Lot, Block 11, Original Town Plat of Mobridge. (See description)

CHAPTER 9-2 SNOW REMOVAL ON SIDEWALKS

9-2-1 Duty of Owner or Occupant

It shall be the duty of the owner or occupant or person in possession or in charge of any lot, parcel, or plot of ground fronting or abutting upon any sidewalk, to keep such sidewalk free and clear from snow and ice at all times. When it is impossible to take snow and ice from such walk by reason of its being frozen to the sidewalk, the owner or occupant or person in charge of such lot shall sprinkle or spread some suitable material upon the same to prevent the walk from becoming slippery and dangerous to travel.

9-2-2 City Shall Remove

If the owner or person in possession or in charge of any of the said lots, parcels, or plots of grounds, fails or refuses to remove the snow or ice from such sidewalk within twelve hours of the falling of said snow or the forming of said ice, the City shall remove or cause to be removed said snow or ice each time it is necessary and assess the cost thereof against the fronting or abutting property.

9-2-3 Cost Assessed

The officer in charge of streets shall cause an account to be kept against each lot for the removal of snow from the sidewalks each year and same shall be certified to the City Finance Officer on or before the 15th of May each year.

The City Finance Officer shall prepare an estimate of the assessment against each lot for the removal of snow for the proceeding winter and fall and submit the same to the Council for its approval on or before the 1st day of June of each year, and shall publish in the official newspaper a notice to property owners of the time and place when and where the Council will meet for the purpose of approving such estimate. Such notice shall be published at least one week prior to the date set for said hearing.

Upon the day so named, the Council shall meet; and if they find said estimate correct, shall approve the same, with or without modification or amendments as they may deem proper, and file said assessment with the City Finance Officer. From the date of such approval and filing, the same shall be collected in like manner as special assessments are now collected for public improvements.

9-2-4 Recovery by City

In lieu of spreading the cost of such snow removal as a special assessment against said property in the discretion of the Council, said amount may be recovered in a civil action against the owner or occupant of said property.

9-2-5 Penalty

Any person whose duty it shall be to remove snow as set forth in Section 9-2-1 and 9-2-6 and who fails to remove such snow within the time therein set forth, shall be guilty of a misdemeanor; and upon conviction thereof shall be fined an amount set by resolution in addition to the other penalties prescribed in this chapter; and in addition thereof, shall be liable to the municipality for any damage caused by the neglect to keep such sidewalk clear and free of snow and ice as provided in this chapter.

9-2-6 Main Street District Duty to Remove Snow

For purposes of this ordinance, the Main Street District shall be defined as Main Street commencing at the southern edge of the intersection of Railway Street and ending at the northern edge of the intersection of Sixth (6th) Street and for one block east and west of Main Street for all streets which intersect with Main Street between said Railway Street and Sixth (6th) Street. In addition to the obligations set forth in 9-2-1, it shall be the duty of the owner or occupant or person in possession or in charge of any lot, parcel, or plot of ground fronting or abutting upon any sidewalk in the Main Street District to remove all snow from the sidewalks on said lots prior to 8:00 A.M. Central Time. If the owner or person in possession or in charge of any of the said lots, parcels, or plots of grounds in the Main Street District, fails or refuses to remove the snow or ice from such sidewalk prior to 8:00 A.M. Central Time, the City shall remove or cause to be removed said snow each time it is deemed necessary by the City and assess the cost thereof against the owner, occupant or person in possession or in charge of the fronting or abutting property. The costs to be assessed for the snow removal shall be an amount set by Resolution.

CHAPTER 9-3 USE OF STREETS

9-3-1 Obstruction on Streets/Parking on Streets and Yards

(a) It shall be unlawful for any person to park any vehicle, boat, trailer, camper, or other object, on Main Street between railroad avenue and 6th avenue continuously for a period of time longer than 12 hours or on any other street continuously for a period of longer than seven days. For the purpose of this paragraph, the term "park" shall mean to allow the vehicle, boat, trailer, camper to remain on the street or streets of the City without having removed the vehicle, boat, trailer, camper more than 100 feet for a period of at least 4 hours. The changing of the position of a vehicle, boat, trailer, camper from one point directly to another point, within the same block, shall be deemed as one continuous parking period. For the purposes of this ordinance, the term "block" shall

mean both sides of a street between two cross streets and shall include the adjoining cross streets.

(b) It shall be unlawful for any person to park any vehicle, boat, trailer or camper on Main Street at any time for residential parking purposes, which includes the purposes of going to or from a residence or apartment. For the purpose of this paragraph, the term "park" shall mean to allow the vehicle, boat, trailer, camper to remain unattended at any time.

(c) It shall be unlawful for any person to park a commercial vehicle which is defined as a motor vehicle or trailer which is more than 80 inches wide overall or weighs in excess of 12,000 pounds on any street, alley, yard or residential parking area in residential areas zoned R-1, R-2 or R-3 for more than one hour except when engaged in deliveries or as support to an ongoing business activity such as construction, moving, carpentry, plumbing, or landscaping, but then only for the time reasonable and necessary to support the activity or make the delivery.

(d) It shall be unlawful for any person to park a motor vehicle or trailer in the front or side yards of a residence or business, unless the motor vehicle or trailer is parked in a driveway. For the purposes of this ordinance, Front Yard and Side Yard is as defined in the definitions of the Mobridge Zoning Ordinances Title 4. For the purposes of this Ordinance, a Driveway is defined as any area which is constructed for the purpose of parking motor vehicles, and which is surfaced with asphalt, concrete, pavers or stone and any area which is surfaced with pavers or stone shall be constructed with an edging or other boundary material which prohibits the movement and spreading of the pavers or stone in order to be deemed a driveway. Any driveway must connect to the public street and must include a curb cut where street curbing is present.

(e) It shall be unlawful for any person to park any vehicle, boat, trailer, camper, or other object within fifteen (15) feet of any crosswalk, stop sign or other stop signal.

(f) Unless otherwise authorized by the Ordinances of the City of Mobridge, it shall be unlawful to block or obstruct any street or alley for more than eight hours within the City without first obtaining a Permit issued by the City Finance Officer or City Administrator. The cost of the Permit shall be determined by motion of the Council and the permit shall be applied for at least 24 hours prior to the time the street or alley will be blocked or obstructed. The form of the Permit shall be approved by the council.

(g) Unless otherwise authorized by the Ordinances of the City of Mobridge, it shall be unlawful to block or obstruct any street or alley for anytime less than eight hours within the City without first notifying the Mobridge Police Department or City Administrator.

(h) Any vehicle, boat, trailer, camper, or other object parked in violation of this ordinance may be removed by the Police Department or the Street Department and the owner thereof in addition to the other penalties prescribed for the violation of a city ordinance shall be required to pay the cost of the towing and removing of said vehicles.

9-3-2 Materials in Streets, Permits

The Council is authorized to grant permission in writing to any person to deposit and keep lumber, stone, brick or other materials for building, on any public sidewalk, street, road, or alley adjacent to the building to be erected or repaired, but such permission shall not excuse the obstruction or occupancy with such materials of more than one-third of the width of any driveway of any street or road.

9-3-3 Permits

Such permits shall not be issued for a longer period than thirty days, but may in case of necessity, be renewed for a like period, and shall be issued only when the applicant therefore has filed with the City Finance Officer a written agreement executed by him or her and approved by the City Attorney to hold the City harmless from any and all damages for which the City may be or become liable because of such occupation of the street to pay any and all cost of repairing and damage to the City because of such occupation or to reimburse the City for removal of said obstruction, should the applicant unlawfully occupy said street. Such permits shall, during the time the work is in progress, be kept on the ground and shall be exhibited upon the demand of any officer or authorized employee of the City, and any officer or employee shall take up and return to the Mayor, any expired permit, or any permit which does not cover the work being done.

9-3-4 Cleaning Streets of Rubbish

Every person to whom permission shall be granted as herein provided, to place and keep building material in street, highway, avenue or alley, shall cause all such material and rubbish resulting therefrom to be removed from such street, highway, avenue or alley at the expiration of the time limited in the permit, unless the time, for good cause, shall be extended by the office herein designated. And any person depositing and keeping any building material in any street, highway, avenue or alley under a permit from the Mayor or City Finance Officer as here in before provided shall during every night while the same shall there remain keep one or more lighted lanterns so placed that such material or obstruction may be easily seen by persons passing along said street, highway, avenue or alley.

9-3-5 Excavation 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, except the same be securely guarded so as to prevent the injury of any person or persons or animals passing upon or along said sidewalks, street, alleys or public grounds or traveled path or roadway.

9-3-6 Building in Street

No person shall erect or maintain any building in such a position that the same shall stand in whole or in part upon any public street, road, alley or sidewalk in said City or so constructed that any part of the building proper shall project into or over such street, road, alley, or sidewalk; provided that just windows, cornices, and other projections from the buildings above the first story, may extend over an adjoining street,

road, alley, or sidewalk not exceeding eighteen inches; and no person shall construct any step, area, or other appurtenance to any building extending over and upon the sidewalk, nor shall any person erect in any public street or road any flight of stairs or steps leading to any floor of any building.

9-3-7 Eave Pipes

No person shall place or maintain any pipe leading from the eaves of any building or any part of any building in said City in such a position that the water discharged from the roof of said building will flow upon or over any public sidewalk in said City.

9-3-8 Garbage in Streets

It shall be unlawful for any person, firm or corporation to throw, or deposit any ashes, offal, dirt, garbage, decaying vegetables, fish, meat, manure, filthy water, slops or any other offensive or putrid matter or thing into or upon any street, venue, lane, alley or public ground within the corporate limits of the City or into any stream of water within the limits of the said City or forming the boundaries thereof.

9-3-9 Continuing Nuisance

The occupation of any street, highway, avenue or alley contrary to the provisions of this Chapter, shall be deemed a continuing nuisance and the same shall be abated by the police officers of the City and the cost of said abatement shall be assessed to the abutting lot, piece or parcel of land.

9-3-10 Hedges and Other Obstructions

No person shall plant, grow, maintain or permit any hedge, shrub, tree, fence or other object creating an obstruction to view from the public street, upon the part of the street or alley between the curb and sidewalk location, commonly known as the boulevard, or if there be no sidewalk within the sidewalk area adjoining his or her property. Any object located in violation of this Ordinance shall be a nuisance and shall be abated as provided by Section 9-3-9.

9-3-11 Coasters, Roller Skates, etc., Generally:

It shall be unlawful for any person to utilize or use roller skates or coasters, roller blades, toy vehicles, skateboards or any nonmotorized wheeled conveyances upon the sidewalks, streets or parking lots in the downtown core area, which shall include an area whose boundaries would be Main St. from Railroad St. north to 6th St and one half (½) block east and west off of Main Street. This ordinance does not apply to those used by the handicapped and bicycles are only prohibited from the sidewalks. (2006ORD___)

CHAPTER 9-4 MOVING BUILDINGS ON STREETS

9-4-1 Permission to Move

It shall be unlawful for anyone to move any building, into, along or across any public street, alley or highway within the City without first having obtained permission to do so in compliance with the provisions of this Chapter. This chapter does not apply to

any structures or parts of structures less than nine (9) feet wide and thirteen (13) feet high when loaded. (2006ORD846)

9-4-2 Application

Anyone desiring to move any building into, along or across any public street, alley or highway within the City shall first apply with the City Council, in writing for permission to do so on a form approved by the City Council and upon submitting a \$50.00 non-refundable application fee. In addition, the application shall be accompanied with the sum set by resolution to be deposited with the City Finance Officer as pledge or guarantee funds to protect the City against loss or damage to crossings, sidewalks or other public or private property, or expense for protecting such property against the injuries that may be caused by the removal of such building; said deposit or the balance thereof, after deducting the amount of damages or expenses, if any, caused by such removal, to be returned upon an official report to the City Council by the Chief of Police. (2006ORD846)

9-4-3 Guarantee Fund

Whenever the City Council shall decide from an examination of the application and from such other information as may be obtained, that the sum set by resolution 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, the City Council is hereby authorized to require the deposit of a sum more than that set by resolution, not less than five hundred dollars or more than five thousand dollars. (2006ORD846)

9-4-4 Permit

Upon the receipt of the application, fee, and the guarantee fund as hereinbefore provided, the City Council may personally or through the Chief of Police, investigate the representations of the applicant and if such investigations are satisfactory to the City Council, applicant shall deposit said guarantee funds with the City Finance Officer to be held subject to the order of the City Council, who shall thereupon issue to 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 City Council, said removal to be finished prior to the time by him or her stated in such application. (2006ORD846)

9-4-5 Refunds

Before refunding said guarantee funds or any part thereof, it shall be the duty of the City Council to examine the report of the Chief of Police and pay out of said funds or set aside for such purposes the amount claimed or ascertained as damages to the public or private property, including the expenses for protection to electric, telegraph, cable television and telephone wires as aforesaid caused or occasioned by the removal of such building. (2006ORD846)

9-4-6 Applicant Must Serve Notice

If the permit includes streets, alleys or highways on which are located, or across or along which are strung electric light, telegraph, telephone wires or cable television wires, it shall be the duty of such applicant to notify in writing the resident manager or

managing agent or officer of such public service corporation or owner of said lines or wires at least 48 hours before the commencement of such work of his or her intent to so move such building under or across such line or wires and of the approximate time for such crossing of line or wires by such building. In addition, all home owners whose trees may have to be trimmed must be notified at least 48 hours in advance of moving the building. (2006ORD846)

9-4-7 Damage to Property

Nothing shall be construed as authorizing the applicant to break, injure or move any telegraph, telephone, electric motors or lines, wires or poles, or in any way injure any trees or other property without the permission of the owner(s) thereof. The building mover shall immediately report any damage done by the moving operation to any street, sidewalk, curb, utility, equipment, sign, tree or other public or private property to Chief of Police. (2006ORD846)

9-4-8 Permit Contents

On the receipt of the application and the guarantee fund as hereinbefore provided the City Council may personally or through the Chief of Police, investigate the representations of the applicant and if such investigations is satisfactory to the City Council, applicant shall deposit said guarantee fund with the City Finance Officer to be by him or her held subject to the order of the City Council, who shall thereupon issue to 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 City Council, said removal to be finished prior to the time by him or her stated in such application.

9-4-9 Refunds

Before refunding said guarantee fund or any part thereof, it shall be the duty of the City Council to examine the report of the Chief of Police and pay out said fund or set aside for such purposes the amount claimed or ascertained as damages to the public or private property, including the expenses for protection to electric, telegraph, cable television and telephone wires as aforesaid caused or occasioned by the removal of such building as aforesaid.

9-4-10 Applicant Must Serve Notice

If the permit includes streets, alleys or highways on which are located, or across or along which are strung electric light, telegraph, telephone wires or cable television wires, it shall be the duty of such applicant to notify in writing the resident manager or managing agent or officer of such public service corporation or owner of said lines or wires at least 48 hours before the commencement of such work of his or her intent to so move such building under or across such line or wires and of the approximate time for such crossing of line or wires by such building.

CHAPTER 9-5 EXCAVATIONS IN PUBLIC PLACES

9-5-1 Permit Requires

No person shall make or cause to be made any excavation in or under any street, parking area, sidewalk, alley or public ground, or remove any earth, soil, paving, gravel or material therefrom without having first obtained a permit therefore as hereinafter provided.

9-5-2 Excavator's License and Responsibility

Any person, firm, or corporation performing the work of excavation of water, sewer, electrical or gas lines within the City of Mobridge on any street, boulevard, or private land shall first obtain a license from the finance office for the City of Mobridge. An annual fee of \$50 shall be collected and a copy of liability insurance as required by the city council shall be on file prior to issuance.

Licensed excavators shall be held responsible for the acts of their agents or employees, done under and by virtue of his or her license. By issuance of this license, said excavator agrees to maintain any state or national license requirements. Any defective work must be changed to conform to code, and any expenses incurred shall be reimbursed by the licensed party.

9-5-3 Fees and Applicant Responsibility

The homeowner shall make application to the water superintendent for a permit to do any excavation within the City of Mobridge for the purpose of water or sewer line installation, either new or for repair. If installation extends to the boulevard, alley, or street, the approval of the street superintendent is also required. An excavation permit fee of \$10.00 shall be paid. If applicable, a water and/or sewer tapping fee shall also be collected per Section 11-3. It shall be the responsibility of the applicant to ensure that all utility companies are notified of the exact place or excavation, prior to excavation.

If excavation extends to the alley or street, the applicant shall make deposit with the finance officer of \$500 for a paved street or alley, or \$300 for a gravel-based street or alley, and will be held until said repairs are complete. An actual bill will be prepared and due in 30 days.

9-5-4 Supervision of Excavations

The street and/or water department shall have opportunity to supervise all excavation done in or on city streets, alleys, or boulevards or public grounds. All excavations will be back filled as written in Section 9-5-6. The contractor is required to use, or have the city workers use, a street saw to cut pavement to help with the aesthetics of repair work.

9-5-5 Guarding Excavations

Any person receiving a permit to make excavations in or upon any street, alley, sidewalk or public ground shall, during the progress and continuance of the work, erect and maintain around the same both day and night suitable guards, fenced, flares, and

signals so as to prevent injury to persons, animals, or vehicles on account of such excavations. Excavation without proper barricades will be subject to a \$100 fine.

9-5-6 Refilling Excavations

Any person making such excavation shall, when the same shall be completed, promptly and without delay, refill the same as herein provided.

In refilling any excavation the earth shall be thoroughly settled as the refilling progresses by using water to compact earth; the earth shall be thoroughly tamped in successive layers of approximately six inches, in such a manner that all the earth shall be replaced in the excavation leaving the surface in its original condition.

In making connection to fire hydrants for flushing excavations, all rules and regulations of the Water Department relating thereto shall be observed.

In all cases where excavations are made in the paved district, the earth shall be replaced in the manner above specified, and the pavement shall be replaced by the Street Department.

CHAPTER 9-6 SIDEWALKS AND CURBS

9-6-1 Sidewalks Required

Sidewalks, curbing with gutter and ramps are to be constructed on all lots within the City whenever a dwelling or building is constructed or placed upon a lot which fronts a Street or Avenue and shall be in accordance with the Americans Disabilities Act, City Ordinances, and Federal regulations. Such construction shall take place within 6 months of completion of such dwelling or building. Failure to place sidewalk and/or curbing will constitute a violation of the building permit and said permit will be in violation and shall be subject to the City's general penalty clause. (2005ORD829)(2005 ORD 813)

9-6-2 Width and Design. REPEALED. Replaced by 9-6-2(1). (2005ORD829) (2005 ORD 813)

9-6-2(1) Specifications.

The construction of all sidewalks and curb and gutter, whether to be done by direct contract with the City of Mobridge or by contract with the abutting property owners, shall be done strictly in accordance with the specifications for sidewalks and curb and gutter adopted by the city council and on file in the office of the finance officer. Where curb and gutter has been constructed in any one block, any additional curb and gutter constructed in that block shall be constructed to be of the specifications adopted by the city council and on file in the office of the finance officer.

The city council may condemn work and material not in accordance with the requirements of said specifications. (2005ORD829)

9-6-3 Repairs. Repealed. Replaced by 9-6-3(1). (2005ORD829)

9-6-3 (1)Property Owner Responsible for Sidewalk Construction and Repair.

It shall be the duty of the person in possession of any lot, parcel, or plot of ground fronting or abutting upon any sidewalk, to keep such sidewalk in repair as provided by SDCL 9-46-2. When the city council deems it necessary to construct, rebuild or repair any sidewalk in the city, it shall notify the owners of lots adjoining the sidewalks to construct, build or repair the sidewalk at their own expense with a designated time. The written notice shall be served personally or by certified mail, return receipt, or by publication, once in each week for two consecutive weeks. If the sidewalk is not constructed, reconstructed or repaired in a manner or within the time prescribed in the notice, the city council may cause the work to be done by the hour or by the job and assess the cost of the work against the lots fronting or abutting upon the sidewalk as provided by SDCL 9-46-4 through 9-46-9. (2005ORD829)

9-6-4 Permit Required

Before any sidewalk or curbing is constructed within the limits of the streets and alleys in the City by any contractor or person, for the owner or owners of abutting property, said contractor or person must first secure a permit therefore from the Zoning Officer. The construction of all sidewalks and curbing shall be in accordance with lines and grades furnished by the Zoning Officer and constructed of concrete in accordance with specifications now on file in the office of the City Finance Officer.

No charge shall be made for providing stakes for line and grade for sidewalk or curb and gutter construction. In the event grade stakes for sidewalk or curb and gutter previously staked are required to be reset, a new permit shall be secured from the Zoning Officer for which a fee set by resolution shall be paid to the City Finance Officer and receipt thereof presented to the Zoning Officer prior to issuance of said permit.

9-6-5 Supervision of Sidewalk and Curbing Construction

The building and construction of all sidewalks, curb and gutter, and ramps within the limits of the streets and alleys of the City of Mobridge shall be done under the direct supervision of the Zoning Officer and all such sidewalks and curbs shall be constructed on the grades as determined by said city, provided however, that the City Council, by resolution, may waive the sidewalk and/or curb requirement when requested by the owner of the property. (2005ORD829)

CHAPTER 9-7 PUBLIC LIBRARY

9-7-1 Trustees, Appointment of

The Board of Trustees, with the approval of the Mayor and City Council, shall appoint, as vacancies occur, trustees for the City Public Library; such Board of Trustees shall consist of five competent citizens, two of whom must be women, one additional member may be a member of the governing body with full voting rights. Such trustees shall be appointed for terms as provided in SDCL 14-2-35.

9-7-2 Organization of Board

In July, each year, said library trustees shall organize by electing from among their members, a president, a vice president, a secretary and a treasurer on each of whom shall devolve the duties usually pertaining to such office.

9-7-3 Trustees Duties

It shall be the duty of such public library trustees to provide suitable accommodations of the public in using the same. Such trustees shall oversee the selection of books, papers and periodicals for such library and may exclude therefrom any reading matter they deem harmful. They may accept gifts of books, money or property for the use and benefit of such library. They shall appoint the librarian and other necessary employees, and fix their compensation, and shall make all necessary rules and regulations pertaining to use of such library facilities. Such trustees may also place certain books upon a pay shelf, and make a reasonable charge for use thereof.

9-7-4 Duty of Finance Officer of Municipality

It shall be the duty of the Finance Officer of the City to keep all funds derived from the levy authorized by SDCL 14-2 in a separate fund and to pay the same upon warrants duly drawn by such trustees.

9-7-5 Library Board Meetings

The library trustees shall organize as a Board at their July meeting and shall hold monthly meetings for the consideration of matters relating to the City Public Library and they shall furnish to the City Council, once each year, a copy of the report provided by law, to be made to the State Library Commission. The library trustees shall, on or before August 1, in each year, make an estimate of the necessary expenses or budget for the maintenance of the public library for the ensuing year and shall verify the same expense in the regular tax levy of the City for the ensuing year. The said trustees and City Council shall have such further duties as are prescribed by SDCL 14-2 and acts amendable thereto.

CHAPTER 9-8 PARK AND RECREATION

9-8-1 Supervision is hereby repealed. (2001ORD779, 9-8-1)

9-8-1.1 Park and Recreation board

The City of Mobridge shall have a City Park and Recreation Board for the City and for the land within three miles of its corporate limits and not located within any other municipality. (2001 ORD 779)

9-8-2 Definition

Wherever in this chapter the term "Board" is used, it shall be deemed to mean the Park and Recreation Board as established by ordinance. (2001 ORD 779)

9-8-3 Creation

There is hereby created in and for the City of Mobridge a Park And Recreation Board as authorized by SDCL 9-38-80 et seq. (2001 ORD 779)

9-8-4 Members of Park and Recreation Board

The City Park and Recreation Board shall consist of seven members, citizens and residents of this city, appointed by the Mayor subject to the approval of the City Council. At least one member shall be from the City Council. Members of the Board shall serve without compensation for service on the Board.

9-8-5 Terms of Members

The terms of each member of the Park and Recreation Board shall be for 3 years, except that when such Park and Recreation Board is first appointed, Two members shall be appointed to serve a one year term, two members shall be appointed to serve a two year term and three members shall be appointed for a three year term. Thereafter, appointments of each member shall be for three years so that there will be an overlapping of tenures. (2001 ORD 779)

9-8-6 Vacancies

Any vacancy in a membership on the Board shall be filled for the unexpired term in the same manner as for appointment. (2001 ORD 779)

9-8-7 Organization

Upon appointment the Board shall be called together by the Mayor and shall organize by electing a Chairperson, Vice-chairperson, and a Secretary from among its members for a term of one year with eligibility for re-election, and may fill such other of its offices as it may create in a manner prescribed by the rules of such Board. The Vice-Chairperson shall act in the absence or disability of the President. In case of death or retirement of an officer, a successor shall be elected immediately. The Board shall hold

regular meetings at least once each month and as many special meetings as it deems proper. Four members of the Board shall constitute a quorum for the transaction of business. (2001 ORD 779)

9-8-8 Duties

The Board shall have the following duties:

- (1) To initiate, review, and make recommendations for ordinances, policies, and rules governing the use of the city's public parks, swimming pools, and other facilities in connection therewith.
- (2) To provide the city council with a comprehensive parks and recreation system plan.
- (3) To develop plans based upon projected growth and expansion of the city for future park needs, locations and necessary facilities.
- (4) To initiate and review parks and recreation programs, and to make recommendations to the mayor and city council for their adoption.
- (5) To review and make recommendations to the mayor and city council on any matters affecting the establishment, improvement, maintenance, and regulation of the parks, including any Proposed revisions to this Chapter. Such issues shall be submitted to the Board for recommendation prior to official action.
- (6) Advise and assist the parks and recreation director relative to parks and recreation.
(2001 ORD 779)

9-8-9 Powers

The Board shall have the following powers, in addition to those specifically set out in other sections of this code:

- (1) to establish, improve, care for, regulate and manage a system of public parks, parkways and boulevards and, with the approval of the Council, to acquire land therefor;
- (2) to regulate the planting and trimming of trees and shrubbery in parking and park places upon any public street or boulevard;
- (3) to establish the channel of any stream or watercourse forming a part of the park system and improve the banks thereof;
- (4) to establish, maintain and conduct with or without charge or to grant concessions for places of public amusement, recreation, or refreshment within or in connection with such parks provided no lease or grant shall be made for longer than three (3) years and no professional shows or exhibitions for which an admission price is charged unless approved by the Board;
- (5) to park and boulevard the streets, and to maintain the same and regulate the care thereof.
(2001 ORD 779)

9-8-10 Cemeteries

The Board shall have the supervision and control of the city cemeteries.(2001 ORD 779)

9-8-11 Vegetation

The Board shall have the control and management over the planting, maintaining, trimming and removal of trees, shrubs and plants in any and all public grounds or as may be provided by other ordinances of the city. (2001 ORD 779)

9-8-12 Statutory Powers and Duties

The Board shall have all powers and duties provided forth in SDCL 9-38, et seq. (2001 ORD 779)

9-8-13 Reports and Funding

The Board shall make written quarterly progress reports to the City Council and file them for public review with the City Finance Officer and shall on or before the fifteenth day of August of each year make an estimate of the monies necessary for the operation of the public parks and also of the system of public recreation and playgrounds as authorized by law and such estimate shall be certified to the city finance officer on or before the first day of September of each year. All sums of money appropriated for park and for recreation purposes are to be maintained in one account. (2001ORD 779)

9-8-14 Interfering with Board

It shall be unlawful for any person to interfere with or molest the Board or any of its officers or employees in the performance or exercise of their duties as specified by statutes of the state or ordinances of the city. (2001 ORD 779)

9-8-15 Assistance

Subject to the approval of the City Council, the Board may employ such technical, electrical, clerical, maintenance, seasonal labor, part-time labor and other assistance as may be deemed essential to carry on the work of the Board. Persons employed shall not be under the Civil Service except as otherwise determined by the City Council. In case of employment of a full time Parks, Recreation and Forestry Director by the city, his or her work shall be performed under the direction and supervision of the Board. The compensation of all such employees shall be fixed by resolution of the Council. (2001 ORD 779)

9-8-16 Director

The Park, Recreation and Forestry Director shall be the executive officer of Board in the planning, supervision and director of all work relative to the operation and maintenance of the public park and of all work relative to the recreational program, the management of forestry services and operation and maintenance of the city cemetery and shall have supervision over all employees of said Board. (2001 ORD 779)

9-8-17 Contracts

All contracts and agreements relating to the work of the Board and for services or materials required by it shall be made by the City Council in its discretion. (2001 ORD 779)

9-8-18 Posting Bills, Signs, etc.

No person shall post, paste, paint or affix any placard, bill, notice or sign upon any structure or thing within any park and upon any of the fences or enclosures thereof, nor upon any part of any parkway. (2001 ORD 779; 9-8-2)

9-8-19 Setting Traps, Snares, etc.

No person shall at any time set, lay, prepare, or have in possession any trap, snare, artificial light, net, bird line, ferret, or any contrivance whatever for the purpose of catching, taking or killing any bird or animal in any park or parkway. (2001 ORD 779; 9-8-3)

9-8-20 Obstructions and Rubbish

No person shall place or suffer to remain in any park or parkway any goods, wares, merchandise or other articles, in the nature of an obstruction for the free use and enjoyment of said park or parkway; nor shall any person place any straw, dirt, chips, paper, shavings, ashes, swill or other rubbish, whether offensive to health or not, in or upon the same; nor shall any person throw, deposit or leave any paper, article or thing in the parks, parkways or waters therein; except in the receptacles provided for waste. (2001 ORD 779; 9-8-4)

9-8-21 Removing or Vandalizing of City Property

No person shall remove or vandalize City property in any park or parkway other than moving the picnic tables within the park. (2001 ORD 779; 9-8-5)

CHAPTER 9-9 CEMETERIES

9-9-1 Cemeteries

The word "cemetery" as used herein shall mean and include the Mobridge Municipal Cemetery. Section C thereof is located in the northwest corner of the NW 1/4 of the NE 1/4 of Section 29, Township 124 North of Range 79 west. Sections A, B and D thereof as hereinafter described, are located in the northeast corner of the NE 1/4 of the NW 1/4 of Section 29, Township 124, Range 79 all in Walworth County, South Dakota, as shown by plats filed in the office of the Register of Deeds of Walworth County, South Dakota; and also the Greenwood Cemetery now owned by the City, located and described as Lot One in the SW 1/4 of Section 17, Township 124, Range 79, comprising ten acres, and also the First Addition to Greenwood Cemetery located in the SW 1/4 of Section 17, Township 124, Range 79, comprising ten acres, a total of twenty acres for the said Greenwood Cemetery, all in Walworth County, South Dakota, as shown by plats filed in the Office of the Register of Deeds of Walworth County, South Dakota.

9-9-2 Supervision

Mobridge Municipal Cemetery and Greenwood Cemetery shall be under the supervision and control of the Parks Department. A Cemetery Superintendent may be

appointed by the City Council for coordinating the daily operations if needed. The City Finance Officer is hereby designated the Sexton. The City will provide for the basic care of leveling, seeding, and maintaining of lots and spaces. (2001 ORD 779) (2002 ORD 790)

9-9-3 Description

The Moberidge Municipal Cemetery as now established consists of Sections A, B, C and D. Section C includes lots numbered 1 to 234, both inclusive, which was established by the Moberidge Cemetery Association, and which lots are now owned by individuals or occupied by purchasers now deceased or their heirs. Unsold lots in Section C are governed by the provisions for Sections A, B, and D.

Section A consists of Lots numbered 4 to 56, both inclusive, of Addition A. Section B consists of lots numbered 1 to 56, both inclusive, of Addition A. Section D consists of all that portion of Block 5 of the C.A. Draeger Addition to the City of Moberidge not included in Sections A and B hereof, same to be hereafter platted for cemetery purposes, and such additional areas as may hereafter be acquired. Said cemetery lots in Section A, B and D shall be disposed of as hereinafter provided. Reference is made to the plat of said lots as recorded in the office of the Register of Deeds of Walworth County, South Dakota and filed therein and as filed in the office of the City Finance Officer of the City of Moberidge.

9-9-4 Description

The Greenwood Cemetery as now established consists of Lot One of the Southwest Quarter of Section 17, Township 124, Range 79, comprising ten acres, and also the First Addition to Greenwood Cemetery located in the Southwest Quarter of Section 17, Township 124, Range 79, comprising ten acres, a total of twenty acres for the said Greenwood Cemetery, all in Walworth County, South Dakota, as shown by plats filed in the office of the Register of Deeds of Walworth County, South Dakota.

9-9-5 Price of Lots and Fees Charged

a) There shall be paid to the City of Moberidge for the purchase of burial lots, or parts of lots, at Greenwood Cemetery and at Moberidge Municipal Cemetery, including perpetual care, the sum of \$400.00, per grave site on the lot or part of lot purchased.

b) The City of Moberidge will open and close all graves at both Greenwood Cemetery and Moberidge Municipal Cemetery. There shall be paid to the City of Moberidge for the opening and closing of graves and disinterment services the following sums:

1. For regular sized graves the sum of \$350.00, per grave site during the months of May, June, July, August, September and October and the sum of \$425.00 per grave site during the months of November, December, January, February, March and April.
2. For undersized graves (for babies), the sum of \$250.00, per grave site.
3. For the burial of cremains (12" x 4' hole) the sum of \$125.00.

4. In the event the opening and closing of a grave shall be for a grave which will be deeper than 7 feet for the purposes of containing at some time Double Stacked graves, the opening and closing charge for the first grave shall be the sum of \$425.00 during the months of May, June, July, August, September and October and the sum of \$500.00 per grave site between the months of November, December, January, February, March and April. The opening and closing charge for the second grave shall be the same as for a regular sized grave as set forth in paragraph 1 above.
5. All disinterment services shall be charged a fee based upon the rate of \$150.00 per hour.

c) All transfers of any lot or parts of lots or of a single grave to another person by the owners thereof shall be in writing in the form of a Deed as prescribed by law. Such transfer shall not be complete or recognized by the City of Mobridge, or burial of a body be permitted therein by such purchaser until the instrument, or Deed, or the transfer thereof, shall have been filed with the Finance Officer of the City of Mobridge, South Dakota, for which recording the person recording same shall pay to the City of Mobridge a recording fee of \$10.00.

9-9-6 Certificate of Purchase

The Mayor and City Finance Officer of the City of Mobridge, upon receipt from the City Finance Officer showing the purchase thereof to be fully paid, shall, upon payment in full for the use of lots, portions of lots and grave spaces, deliver to the purchaser thereof a certified certificate of purchase executed by the Mayor and attested by the City Finance Officer under the seal of the City. No burial shall be permitted until the purchase price is fully paid. Blank forms for such certificates of purchase as prescribed herein shall be supplied to the City Finance Officer.

Lots are sold for no other purpose than for the burial of the human dead, and such incidental uses as are suitable and proper for a cemetery lot, but under restrictions as contained in this Ordinance.

All interments in lots shall be restricted to members of the immediate family, or relatives of the owner thereof unless permission to the contrary be obtained from the Cemetery Committee. Double stacking of two bodies will be allowed in one grave site in Greenwood cemetery, but not in the City Cemetery. Double Stacking of bodies are subject to the additional fees set forth in 9-9-5. Other than set forth herein for Double Stacking bodies, only one body will be allowed in one grave site except in case of a mother and infant in which case a special permission must be obtained from the Cemetery Committee. In the event a grave is dug deep in order to allow for Double Stacking bodies, the Cemetery Committee must be notified so the Sexton may document and keep appropriate records.,

No sale, assignment or transfer of a lot shall be valid without the consent of the City, first had and endorsed upon such transfer or assignment, and entered on record by the City.

9-9-7 Fiscal Management

There is hereby established in the City Finance Office a "cemetery fund". In the "cemetery fund", the City Finance Officer shall deposit all money received from:

1. The sale of lots
2. Payments received for the digging of graves
3. Receipts from all other sources.

The Finance Officer shall make available an annual itemized report to the City Council of all monies received during the year.

9-9-8 Burial at Expense of City

The Mayor, Finance Officer or a majority of the Cemetery Committee, may order the Sexton to dig a grave and bury any person at the expense of the City whenever the deceased leaves no estate or relative whose duty it is, and who is able to defray such expenses. The City shall, when legally possible, collect for cost such lot and digging of such grave, from the county legally liable thereof.

9-9-9 Public Burying Plots

The burial plots numbered 123, 124 and 125 in Section C and burial plots numbered 53, 54, 55 and in Sections A, B and D in the Municipal Cemetery are hereby set apart and indicated as the public burying ground and shall continue to be used for the burial of persons for whom no other place has been provided, and shall be and remain such public burying ground.

The burial spaces in said public lots shall be numbered by the Sexton in consecutive order, eight in each lot, beginning with lot 123 in the plot first above described. The Sexton shall erect and maintain at each of said graves a marker whereon shall be cut the number thereof, and the name of the person buried therein, and whenever any burial has been made on any lot in said public ground, no burial shall be made on any other lot thereof until such first lot is full.

9-9-10 Records

The Sexton shall keep a book to be furnished and owned by the City, in which he or she shall record the decedent's age and the date and cause of death, and the number of the lot and block of his or her burial; and he or she shall report quarterly to the City Council the names and other facts so required to be recorded by the Sexton, and the City Officer shall transcribe and owned by the City and kept in City Hall to be known as the Burial Record. The Sexton shall also keep a record of those graves that have been dug deep to allow Double Stacking which shall include the forgoing information pertaining to the decedent buried deep and the person buried on top.

9-9-11 Depth of Graves

All single graves in said cemetery, except for the burial of cremains, shall be dug not less than five nor more than seven feet deep. Graves dug for the purposes of Double Stacking graves shall be dug not less than 9 nor more than 11 feet for the first

opening. The grade established shall be on the level with the surrounding ground and compliance with the grade of all lots shall be determined by the Sexton. In order to maintain a high standard of care and to eliminate sunken graves it is required that burial be made in an outside container or vault of steel, cement or other construction material approved by the sexton. Casket vaults are required in all of the Mobridge cemeteries, except cremains may be buried in a standard cremation container.

9-9-12 Monuments

a) REGULATIONS

All monuments hereafter erected in the cemeteries shall be set upon a concrete base not less than two inches thick, the said base to be constructed with a footing extending beyond the base stone of the monument at all points at least six inches. Such footing and all markers shall be level with the grade level of the lot or burial space so that a mowing machine may be run over it. Not more than one central monument shall be erected on any lot or on any lot or plot, and only one upright marker for each grave, except on double stacked graves, two flat markers may be placed. The City shall be entitled to move any marker or monument, either temporarily or permanently, to facilitate maintenance of the cemetery.

b) APPLICATIONS FOR PERMIT REQUIRED

Every person, before placing, constructing or installing a monument, marker or headstone anywhere in the Cemetery, shall make an application to the Sexton, stating the location, ownership of lot, dimensions of stone, kind of material of stone, and proposed method of placing, construction or installation.

c) PERMIT

If satisfied that said stone and the proposed method of placing, installation or construction comply with all ordinances of this city relating thereto, the Sexton shall issue a permit for the placing, construction or installation of same, which permit shall contain all of the information required to be stated in the application, and shall be issued in duplicate, one copy of such permit to be delivered to the cemetery Superintendent before the work of placing, constructing or installing said stone is commenced. The fee for said permit shall be set by the City Council upon recommendation by the Park and Recreation Board.

d) INSTALL ONLY IN COMPLIANCE WITH PERMIT

No person shall place, construct or install any monument, marker or headstone in the Cemetery without first complying with the provisions of this Chapter, or otherwise than in accordance with the permit.

9-9-13 Reserved

9-9-14 Reserved

9-9-15 Preservation of Roadways

To ensure that roadways remain in good repair throughout the cemeteries, the park superintendent may, at his discretion, close the public entranceways when weather conditions cause blockages or muddy conditions. He/she also has the discretion, with

the concurrence of the funeral director to request a burial take place when road and/or weather conditions improve.

9-9-16 Vandalism

It shall be unlawful for any person to mar, mutilate, graffiti, destroy, or remove any tomb, monument, gravestone, landmark, or receptacle for flowers or shrubs lawfully placed within the cemeteries; or to willfully injure, destroy, or remove any type of vegetation placed within the cemetery; or to deface with paint, or put up signs on any fence within or around the cemeteries. It shall be unlawful to deposit, dump, or leave any waste material, rubbish, or trash within the cemetery grounds unless in designated waste receptacles.

CHAPTER 9-10 PUBLIC AIRPORT

9-10-1 Supervision

The Mobridge Municipal Airport shall be under the supervision of the City Council. Minor matters of supervision shall be under the supervision of the Airport Supervision Committee, composed of three members to be appointed by the Mayor, one from the City Council and two from the City at large, and the fourth member shall be the Airport Manager.

9-10-2 Airport Manager or Operator

The City Council shall have authority to employ an Airport Manager or Operator under contract for the general management of the Mobridge Municipal Airport facilities and activities.

9-10-3 Airport Facilities

The airport air strips, runways and aprons shall at all times be maintained for public use under rules and regulations as may be established by the City of Mobridge, the South Dakota Aeronautics Commission and or the Federal Aviation Administration.

The City Council may lease shop and administrative buildings or parts of buildings and hangars owned by the City, and may lease areas not used by the general public for Public Airport purposes and operations for construction of aircraft hangars and other uses, as may be approved by the City Council, the South Dakota Aeronautics Commission and the Federal Aviation Administration.

9-10-4 General Regulations

All ground rules and regulations for the Municipal Airport shall be kept and posted at the Airport and made readily available to the users of the facilities.

The City council shall have authority at any official regular or special meeting thereof to make additional regulations and ground rules or amend those herein specifically provided by resolution provided the same is not inconsistent with the Rules, Regulations and Requirements of the South Dakota Aeronautics Commission and Federal Aviation Administration. When adopted, such rule or regulation shall be filed in City Hall and shall become effective as any other resolution and by posting a certified copy thereof at the Municipal Airport at a place open to public inspection. The City reserves the right to revoke, cancel or change any or all said rules or parts thereof. In any contingencies not specifically covered by these rules, the City Council and Airport Manager shall be the arbitrators.

No building or other improvement shall be constructed, installed or placed upon said airport property, except upon written application to the City Council and approval thereof by a majority of the City Council; and the same must conform to the current master plan for the airport administration requirements and specifications.

9-10-5 Lessee To Obey Rules, Governmental Capacity

In submitting any application to use the facilities of the airport, each applicant shall state that the rules and regulations of the airport will be followed and obeyed and the privilege of using the airport and its facilities shall be conditioned on the assumption of full responsibility and risk by the user thereof and he or she shall release, hold harmless and indemnify the City, the City Council, their officers and employees from any liability or loss resulting from such use, as well as against claims of third persons who use the airport. The exercise of the privilege of use shall constitute an acknowledgement that the City and City Council maintain said airport in a governmental capacity.

9-10-6 Penalties

The Federal, State and local laws and ordinances pertaining to intoxicating liquors and narcotics, will be respected by all persons connected with the Municipal Airport, under penalty of arrest, revocation of license and withdrawal of privileges as herein stated in this Ordinance.

The Airport Manager or Operator and/or Police Officer of the City of Mobridge, and any and all other law enforcement officers, will have authority to enforce all rules and regulations contained herein. Any person violating these rules or refusing to comply therewith, will be subject to the penalties provided by law and this Ordinance and, the enforcement of this Ordinance shall be under the jurisdiction of the City of Mobridge, Police Officers, and other Courts of competent jurisdiction.

The violator shall be given written notice of any violation requiring the violator to comply with this Ordinance within twenty-four hours after personal service thereof, or, if the violator cannot be found said notice may be posted upon the object in violation for a period of twenty-four hours; and, if the owner shall not within said twenty-four hours be in compliance, the Airport Manager or Operator, Airport Committee or City Council may order the violation abated forthwith and the cost thereof charged to the person causing or responsible for such violation. The abatement of a violation shall not relieve the person, firm or corporation in violation from liability and penalty for such violation as herein provided, as being a misdemeanor.

CHAPTER 9-11 WIDTHS OF STREETS, AVENUES AND OTHER PUBLIC RIGHTS OF WAY

9-11-1 Width of Streets and Avenues and Other Rights of Ways

All plats, and re-plats of any area within the City limits of the City of Mobridge, any subdivision thereof or plat within the three mile limit providing for any public street, avenue, boulevard or other public right of way, except for public alleys, shall provide for such right of way to be not less than 66 feet in width, unless for good cause shown said public right of way may be of a lesser width. Public alleys at the rear of platted lots shall be not less than 20 feet of width.

**CHAPTER 9-12 ABANDONED, WRECKED, DISMANTLED OR
INOPERATIVE MOTOR VEHICLES**

9-12-1 Definitions

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

- A. City is the City of Mobridge, South Dakota.
- B. Motor Vehicle is any vehicle which is self-propelled and designed to travel along the ground and shall include, but not to be limited to automobiles, busses, motorbikes, motorcycles, motor scooters, trucks, tractors, go-carts, campers and trailers.
- C. Junked Motor Vehicle is any motor vehicle as defined by subsection (b) of this Ordinance, which does not have lawfully affixed thereto, an unexpired license plate or plates of the condition of which is wrecked, dismantled, partially dismantled, inoperative or discarded.
- D. Person shall mean any person, firm, partnership, association, corporation, company or organization of any kind.
- E. Private Property shall mean any real property within the City which is privately owned and which is not public property as defined in this section.
- F. Public Property shall mean any street, alley or highway which shall include the entire width between the boundary lines of every way publicly maintained for the purpose of vehicular travel, and shall also mean any other property which is publicly owned by what is commonly defined a public corporation or public entity.
- G. Appropriate cover shall mean, a cover specifically adapted and made to cover car in a neat manner. Tarpaulins or tents are not acceptable.
- H. Antique shall mean a vehicle that is more than thirty years old and has historical plates. (2001ORD776)

**9-12-2 Storing, Parking or Leaving Dismantled or Other Such Motor
Vehicles Declared Nuisance; Exceptions**

The Presence of an abandoned, wrecked dismantled, inoperative, junked or partially dismantled motor vehicle or parts of thereof, on private or public property is hereby declared a public nuisance which may be abated as such in accordance with the provisions of this Ordinance. The Ordinance shall not apply to any motor vehicle enclosed within a building on private property or to any motor vehicle held in connection with a business enterprise, lawfully operating within the City and properly operated in the appropriate business zone, pursuant to the zoning laws of the City or to any motor vehicle in operable condition specifically adopted or designed for operation on drag strips or raceways, or cars used for demolition derbies and covered with an appropriate cover to screen it from view that remains on private property, or any motor vehicle retained on private property by the owner for antique collection purposes and covered with an appropriate cover. (2001ORD776)

9-12-3 Storing, Parking, or Leaving Dismantled or Other Such Motor Vehicles on Public Property Prohibited

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

9-12-4 Removal

Whether any police officer finds an abandoned motor vehicle or an unattended motor vehicle which is in a wrecked, dismantled, inoperative, junked or partially dismantled condition on public property within the City, the officer is hereby authorized to provide for the removal of such motor vehicle to a garage or place of safety. A motor vehicle that causes an obstruction and hazard to traffic may be removed at any time under the directions of the Police Department.

9-12-5 Notice to Owner

It shall be the duty of the Police Department to notify, by certified mail, the registered owner, if known, and if encumbered, the lienholder, of the removal and storage of any motor vehicle under the provisions of this Ordinance and where such motor vehicle has been stored. If the Owner is unknown, a notice of removal and storage shall be given by one (1) publication in a newspaper of general circulation in the County.

9-12-6 Sale of Unclaimed Motor Vehicle

If after three (3) months from the date of mailing or publishing the notice of removal and storage provided by this Ordinance, the motor vehicle shall remain unclaimed, such motor vehicle may be sold by the Police Department at a public auction upon notice to be published in a newspaper of general circulation in the County not less than once a week for two (2) consecutive weeks.

9-12-7 Notice of Sale

The notice of sale provided by this Ordinance shall contain a description of the removed and stored motor vehicle, including the year, make, model, serial, no., color, license number, if any, a statement that the motor vehicle was found abandoned, the date thereof, and the place, date and time at which such motor vehicle shall be sold, which date shall not be sooner than one (1) week following the date of the last publication of the notice.

9-12-8 Lien for Costs

The Police Department shall have a possessor lien upon any motor vehicle removed under the provisions of this Ordinance for the costs in taking custody of and storing such motor vehicle.

9-12-9 Title May Vest in City-When

If, after three (3) months from the date of mailing or publishing the notice of removal and storage provided by this Ordinance, the motor vehicle shall remain

unclaimed, the title to such motor vehicle shall be vested in the City and such motor vehicle may be disposed of in any manner as may be provided by the City Council. The proceeds of such disposal shall first be applied to the costs incurred in the enforcement of this Ordinance with the balance to be deposited to the general fund of the city.

9-12-10 Duty of Private Property Owners

No person owning, in charge of or in control of any real property within the City, whether as owner, tenant, occupant, lessee or otherwise, shall allow any abandoned, wrecked, dismantled, inoperative, junked or partially dismantled motor vehicle of any kind, to remain on such property longer than fourteen (14) days.

9-12-11 Notice to Remove

Whenever it comes to the attention of the Police Department that any person has an abandoned, wrecked, dismantled, inoperative, junked or partially dismantled motor vehicle on his or her property, a notice in writing shall be served upon such person requesting the removal of such motor vehicle in the time specified in this Ordinance, and this person shall be responsible for its removal.

9-12-12 Notice Procedure

The Police Department shall give notice of removal to the owner or occupant of the private property where it is located. It shall constitute sufficient notice, when a copy of the same is sent by registered mail to the owner or occupant of the private property at his or her last known address. The notice shall contain the request for removal within fourteen (14) days after the mailing of such notice, shall advise that failure to comply with the notice to remove shall be a violation of this Ordinance.

9-12-13 Racing or Antique Vehicles

No owner or occupant of private property shall have a motor vehicle which is not covered with an appropriate cover which is in operable condition specifically adopted or designed for operation on drag strips or raceways or cars used for demolition derbies or an uncovered motor vehicle retained on private property for antique collection purposes, all as defined by Section 1 hereof. For notice of violation of 9-12-13, the police department will either send a notice by certified mail, or may personally deliver a Summons, to appear in Court for the violation by the owner, tenant or lessee giving the time and date of both the violation and the date of court appearance. (2001ORD776)

9-12-14 Penalty

Any person violating any of the provisions of this Ordinance shall be guilty of a misdemeanor, and upon conviction shall be subject to a fine of \$200.00, or imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such.

CHAPTER 9-13 – TREES

9-13-1 Purpose

It is the purpose of this ordinance to promote and protect the public health, safety, and general welfare by providing for the regulation of the planting, maintenance, and removal of trees, shrubs, and other plants within the city of Mobridge.

9-13-2 Authority and Power

There is hereby created and established a City Tree Board for the City of Mobridge, which shall consist of five members, citizens and residents of this city, who shall be appointed by the mayor with the approval of the city council. Members of the board shall serve without compensation. The City Tree Board shall cooperate with and be under the supervision of the Park and Recreation Board. One member of the City Tree Board shall be appointed to the Park and Recreation Board in accordance to provisions and conditions of Section 9-8-4. (2001ORD779)

9-13-3 Term of Office

The term of the five persons to be appointed by the mayor shall be three years, except that the term of two of the members appointed to the first board shall be for only one year and the term of two members of the first board shall be for two years. In the event that a vacancy shall occur during the term of any members, his or her successor shall be appointed for the unexpired portion of the term.

9-13-4 Applicability

This ordinance provides full power and authority over all trees, plants, and shrubs located within street rights-of-way (boulevards), parks and public places of the city, and to trees, plants and shrubs located on private property that constitute a hazard or threat as described herein. (2006 ORD 830)

9-13-5 Definitions:

Contractor: Person or persons, acting singly or as a company whose business it is to engage in the planting, relocation, pruning or demolition of trees, shrubs or other vegetation.

Park Trees: Trees and all other wood vegetation in public parks, playgrounds, cemeteries, or other areas of the city owned by the city, and are freely accessed by the citizens of Mobridge. This shall include boulevard trees and those on traffic islands created on Main Street.

Private Trees: Trees and all wood vegetation that are upon land owned by private citizens or business within the city limits of Mobridge.

Boulevard Trees: Trees and all other wood vegetation on land laying between the right-of-way lines, streets, avenues, alleys or other public rights-of-way within the City. (2006 ORD 830)

9-13-6 Licensing

It shall be unlawful for any person to engage in the business of planting, cutting, trimming, pruning, removing, spraying, or otherwise treating trees, shrubs or vines within the city without first obtaining a license to do so, if they are compensated or receive barter in exchange for the work. (1998ORD750)

9-13-7 License Fee and Insurance

Tree contractors shall pay an annual fee to the city of Mobridge the sum of \$365.00 on or before January 1 of each year. With this fee shall come the right to use the city rubble site for the purpose of depositing tree debris at any time throughout the year.

Compensated (cash or barter) contractors who do not wish to have free use of the city rubble site shall pay an annual fee of \$50.00 to the City of Mobridge.

Furthermore, before a license shall be issued, each applicant shall file evidence of possession of liability insurance in the minimum amounts of a combined single limit of \$500,000. (1998ORD750)

9-13-8 Regulations to be Obeyed

In spraying trees for the control or elimination of the infection commonly known as Dutch Elm Disease, the following regulations shall be complied with:

- A. All applicable state and federal laws and regulations shall be followed.
- B. Spray shall not be applied when wind velocities are greater than five miles per hour or when temperatures are below freezing, or when rain or snow is falling.
- C. Feeding stations, waters places and other objects which attract birds must be protected from spray drifts.

9-13-9 Revocation of License/Penalty

Any license issued under the provisions of this Ordinance may be revoked for repeated violations of this Ordinance or any provision hereof, or of any other Ordinance relating to the work done.

Any person firm or corporation violating any of the provisions of this ordinance shall be fined up to \$500.00 for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

9-13-10 Landscaping

In new subdivisions or when the development of commercial property occurs, the Park and Recreation Board, state forester, or his or her official designee will review landscaping plans and may require boulevard trees to be planted in any of the rights-of-way, parking lots parks and other public places abutting lands henceforth developed and/or subdivided. (2006 ORD 830)

9-13-11 Tree planting, Maintenance, and Removal

TREE SPECIES: The Park and Recreation Board will develop and maintain a list at City Hall of desirable boulevard trees for planting along streets. The board shall review this list every five years.

SPACING: The spacing of boulevard trees approved by the board and planted in boulevards, will be no closer together than a minimum of 13 feet, except in special plantings designated or approved by a landscape architect.

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

DISTANCE FROM CURB, SIDEWALK, and CORNER: The distance trees may be planted from curbs or curb lines, sidewalks will be 3 1/2 feet from the curb and 16 feet in from the furthest curb line of the corner of an intersection.

TOPPING: It shall be unlawful as a normal practice for any person, firm, or city department to top any street tree, park tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs with the tree's crown such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this ordinance at the determination of the Park and Recreation Board. (2006 ORD 830)

9-13-11.1 Removal of Stumps

All stumps of trees in the boulevards and alley right of ways, and those that are a nuisance shall be removed below the surface of the ground with the root stump grubbed out, or ground out to a depth of at least nine (8) inches below grade so that the top of the stump shall not project above the surface of the ground. All wood and debris must be removed from the street prior to the end of the each working day and all holes shall be filled to normal grade level with topsoil as soon as practical. (2006ORD834)

9-13-12 Landmark Trees

The state forester, or his/her official designee shall have as one of his/her duties the location, selection and identification of any trees which qualify as "Landmark Trees". A tree may qualify as a landmark tree if it meets one or more of the following criteria: Species rarity, old age, association with a historical event or person, abnormality or scenic enhancement. (2006 ORD 830)

9-13-13 Tree Protection

Upon the discovery of any destructive or communicable disease or other pestilence which endangers the growth or health of trees, or threatens to spread disease or insect infestations, the city shall at once cause written notice to be served upon the owner of the property upon which such diseased or infested tree is situated, and the notice shall require such property owner to eradicate, remove or otherwise control such

condition within 15 days from the receipt of notice. No wood, bark or any part of such tree shall remain within the city limits of Mobridge.

9-13-14 Nuisance Trees / Right to Inspect

The state forester or his/her official designee has the authority to enter onto private property whereon there is located a tree, shrub, plant or plant part that is suspected to be a public nuisance. A public nuisance shall be any tree with an infectious disease or insect problem; dead or dying trees; trees or shrubs whose limbs obstruct street lights, traffic signs, the free passage of pedestrians or vehicles or a tree that poses a safety hazard. The minimum clearance of any overhanging portion thereof over a sidewalk shall be eight (8) feet whenever practicable, and shall be fourteen (14) feet over all streets except truck thoroughfares when the clearance shall be sixteen (16) feet, unless otherwise designated by the City Council. (2006 ORD 830)

9-13-15 Nuisances, How Abated

Any hazard as described in section 9-13-14 shall be declared a nuisance, The owner of said tree(s), shrubs, etc. shall receive from the Finance Officer or city attorney a notice stating the violation. The owner of such property wherein the nuisance is shall remove said nuisance within 15 days upon receipt of notice. Failure to comply with the written notice shall make said owner subject to the penalties listed in section 9-13-18.

9-13-16 Tree Damage or Impediment of Growth

Unless otherwise specifically authorized by the City Council or the Park and Recreation Board, no person shall intentionally damage, cut or carve any tree, attach any rope, wire, nails, advertising posters or other contrivances to any tree, allow any gaseous liquid or solid substance which is harmful to such trees to come in contact with them; or to set fire or permit any fire to burn when such fires or the heat therefrom will injure any portion of any tree.

Furthermore, 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, and fertilizer to the roots of any tree growing therein, except by written permit of the City Council or the Park and Recreation Board. (2006 ORD 830)

9-13-17 Enforcement

The state forester, or his/her official designee, and/or the Mobridge Code Enforcement Officer, shall have the power to promulgate and enforce rules, regulations and specifications concerning all aspects of tree care upon the right-of-way of any street, alley, sidewalk, or other public place in the city. (2006 ORD 830)

9-13-18 Penalties, Claims and Appeals

PENALTY: Any person who violates any provision of this ordinance or who fails to comply with any written notice issued pursuant to provisions of the ordinance, upon being found guilty of the violation, shall be subject to a fine not to exceed \$200.00 for each separate offense. Each day during which any violation of the provisions of this

ordinance shall occur or continue shall be a separate offense. If, as the result of the violation of any provision of this ordinance, the injury mutilation or death of a tree, shrub, or other plant located on city-owned property is caused, the cost of repair or replacement of such tree, shrub, or other plant shall be borne by the party in violation. The replacement value of trees and shrubs shall be determined in accordance with the latest revision of "A Guide to the Professional Evaluation of Landscape Trees, Specimen Shrubs, and Evergreens" as published by the International Society of Arboriculture.

ASSESSMENT OF CLAIM: In the event that a nuisance is not abated by the date specified in the notice, the Code Enforcement Officer, or his/her official designee, is authorized to cause the abatement of said nuisance. The reasonable cost of such abatement shall be filed as a lien against the property on which the nuisance was located. In addition, the owner of the property upon which the nuisance was located shall be subject to prosecution. (2006 ORD 830)

APPEALS: Appeals shall be made in the same manner as other ordinance appeal procedures.

TITLE 10 – TRAFFIC CODE

- Chapter 10-1 - Definitions-General Provisions
- Chapter 10-2 - Operation of Vehicles
- Chapter 10-3 - Parking Lots
- Chapter 10-4 - Parking-Stopping
- Chapter 10-5 - Signs and Signals
- Chapter 10-6 - Pedestrians
- Chapter 10-7 - Miscellaneous Provisions
- Chapter 10-8 - Snowmobiles
- Chapter 10-9 - Speed
- Chapter 10-10 – Condition of Vehicles

Chapter 10-1 – Definitions – General Provisions

10-1-1 Definitions

Whenever in this title the following terms are used, they shall have the meanings respectively ascribed to them in this section:

“Authorized Emergency Vehicle”: Vehicles of the Fire Department (Fire Patrol), Police vehicles and such ambulances and emergency vehicles of municipal department or public service corporations as are designed or authorized by the Chief of Police.

“Business District”: The term “business district” as used in this title shall include the territory contiguous to a highway when fifty per cent or more of the frontage thereon for a distance of three hundred (300) feet or more is occupied by buildings used for business.

“Crosswalk”: That portion of a roadway ordinarily included within the prolongation of curb and property lines at intersections or any other portion of a roadway clearly indicated for pedestrian crossing by lines or other markings on the surface.

“Department”: The police department of the City of Mobridge.

“Intersection”: The area embraced within the prolongation of the lateral curb lines or, if none, then the lateral boundary lines of two or more streets or highways which join one another at an angle whether or not one such street or highway cross the other.

“Laned Street”: A street, the roadway of which is divided into two or more clearly marked lanes for vehicular traffic.

“Loading Zone”: The space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers or materials.

“Motor Vehicle”: Every vehicle, which is herein defined, which is self propelled.

“Official Traffic Signals”: All signals, not inconsistent with this title, placed or erected by authority of a public body or official having jurisdiction, for the purpose of directing, warning or regulation traffic.

“Official Traffic Signs”: All signs or markings, other than signals, not inconsistent with this title, placed or erected by a public body or official having jurisdiction, for the purpose of guiding, directing, warning or regulation traffic.

“Operator”: Any person who is in actual physical control of a vehicle.

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

“Pedestrian”: Every person afoot.

“Police Officer”: Every officer of the Municipal Police Department or any officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

“Private Road or Driveway”: Every road or driveway not open to the use of public for purposes of vehicular travel.

“Residence District”: The term “residence district” as used in this title shall include the territory contiguous to a highway not comprising a business district when the frontage of such highway for a distance of three hundred feet or more is mainly occupied by dwellings or by dwellings and buildings in use for business.

“Right-of Way”: The privilege of the immediate use of the street or highway.

“Roadway”: That portion of a street or highway between the regularly established curb lines or that part devoted to a vehicular traffic.

“Sidewalk”: That portion of a street between the curb lines and the adjacent property lines.

“Street or Highway”: Every way set apart for public travel, except footpaths.

“Traffic”: Pedestrians, ridden animals, herded animals and vehicles while using any street for the purpose of travel.

“Traffic Control Signal”: Any device using colored lights, or words, or any combination thereof, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and to proceed.

“**Vehicle**”: Every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks.

10-1-2 Police to Direct Traffic

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

10-1-3 Chief of Police Authorized to Adopt Emergency Regulations

The Chief of Police is hereby empowered to make and enforce regulations necessary to make effective the provisions of this title and to make temporary regulations to cover emergencies or special conditions; provided that any such regulations are not inconsistent with the provisions of this title.

10-1-4 Obedience to Police

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

10-1-5 Public Employees to Obey Traffic Regulations

- A. The provisions of this title shall apply to the operator of any vehicle owned by or used in the service of the U.S. Government, this State, County or City and it shall be unlawful for any such operator to violate any of the provisions of this title, except as otherwise permitted in this title.
- B. The provisions of this title regulating the movement, parking and standing of vehicles shall not apply to authorized emergency vehicles as defined in this title, 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, protect the driver of any such vehicle from the consequences of a reckless disregard for the safety of others.

10-1-6 Persons Propelling Push-Carts or Riding Bicycles or Animals Shall Obey Traffic Regulations

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

Chapter 10-2 Operation of Vehicles

10-2-1 Driver's Permit Required

It shall be unlawful for any person who is a resident of this State to drive or operate upon any of the streets or highways within the City of Mobridge any motor vehicle without first having secured and having in his/her possession a permit to do so issued by the State of South Dakota under the provisions of SDCL 32-12 or any acts amendable there to.

10-2-2 Age of Operator

No person under the age of fourteen years shall operate a motor vehicle upon the streets of the City of Mobridge unless such person is accompanied by the owner of the motor vehicle being operated.

10-2-3 Permitting Minor Under 14 to Operate Vehicle

It shall be unlawful for the owner of any motor vehicle to permit any person under the age of fourteen years to operate such motor vehicle unless such person is accompanied by the owner of said vehicle or has secured a learner's permit or a limited license from the Department of Motor Vehicles.

10-2-4 Drive on Right Side of Street

Upon all streets, except one-way streets, the operator of a vehicle shall operate the same upon the right half of the street and shall drive a slow moving vehicle as closely as possible to the right-hand edge or curb of a street unless it is impracticable to travel on such side of the street and except when overtaking and passing another vehicle subject to the limitations applicable to overtaking and passing set forth in this title.

The foregoing provision of this section shall not be deemed to prevent the marking of lanes for traffic upon any street and the allocation of designated lanes to traffic moving in particular direction or at designated speeds.

10-2-5 Overtaking

The operator of any vehicle overtaking another vehicle proceeding in the same direction shall pass at a safe distance to the left thereof, but only when such left side is clearly visible and is free from oncoming traffic for sufficient distance ahead to permit such overtaking and passing to be made in safety and shall not cut in front of the overtaken vehicle until safely clear of the same; except that this provision shall not apply to highways which have been laned for travel.

10-2-6 Limitations on Privileges of Overtaking and Passing

The operator of a vehicle shall not drive to the left side of a centerline of the traversable roadway in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be made in safety.

The operator of a vehicle shall not overtake and pass any other vehicle proceeding in the same direction at any intersection of streets, except that this provision shall not apply at intersections where traffic is controlled by traffic control signals or by police officers.

The operator of a vehicle shall not overtake and pass any other vehicle proceeding in the same direction on any curve.

The operator shall not overtake any other vehicle proceeding in the same direction in any "no passing zone" and the Chief of Police is hereby authorized to designate such no-passing zones by the painting of or placing of double lines in the center of said street and any zone or any street in the City of Mobridge where double lines, or lanes have been painted or placed in the center of such street, shall be and is hereby designated as no-passing zones and no operator of any vehicle shall pass any other vehicle proceeding in the same direction, in said zone.

10-2-7 Operator To Give Way to Overtaking Vehicle

The operator of a vehicle on a street shall not deviate from his/her direct line of travel without ascertaining that such movement can be made with safety to other vehicles approaching from the rear and about to overtake and pass such first-mentioned vehicle.

The operator of a vehicle upon a street about to be overtaken and passed by another vehicle approaching from the rear shall give way consistent with safety upon suitable and audible signal being given by the operator of the overtaking vehicle, and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

10-2-8 General Provisions for the Safe Operation of Motor Vehicles

1. The operator of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard to the speed of such vehicles and the traffic upon, and condition of, the highway.
2. The operator of a vehicle shall not drive within any sidewalk area except at a permanent or temporary driveway.
3. Upon the approach of any authorized emergency vehicle or vehicles giving audible signals by bell, siren or exhaust whistle, the operator of every other vehicle shall 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 police officer.
4. It shall be unlawful for the operator of any vehicle, other than the one on official business, to follow closer than 500 hundred feet of fire apparatus traveling in response to a fire alarm, or to drive into or stop any vehicle within the block where fire apparatus has stopped in answer to a fire alarm.

5. No person having control or charge of a motor vehicle shall allow such a vehicle to stand on any street unattended without first setting the brakes thereon and stopping the motor of said vehicle.
6. It shall be unlawful for the operator of any vehicle to drive between the vehicles comprising a funeral procession while they are in motion. This provision shall not apply to intersections where traffic is controlled by traffic control signals or police officers.
7. 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.
8. It shall be unlawful for the operator of any vehicle to drive the same when there are in the front seat of such vehicle more than three adult persons or when in any other manner it is so loaded so as to obstruct the view of the operator to the front or sides or to interfere with the operator's control over the driving mechanism of the vehicle.
9. No vehicle shall be driven over any unprotected hose of the Fire Department when laid on any street or private driveway to be used at any fire or alarm of fire, without the consent of the Fire Chief or Fire Department official in command.

10-2-9 Irresponsible Driving

Any person who drives any vehicle within the city limits of Mobridge, or the adjoining jurisdictional area in a reckless or careless manner endangering or likely to endanger any person or property is guilty of violating this ordinance.

Any person who drives a vehicle in such a manner that creates or causes unnecessary engine noise, tire squeal, skid or slide upon acceleration or stopping, simulates a temporary race, or that causes a vehicle to unnecessarily turn abruptly or sway, or shall unnecessarily block or hinder the free travel of other vehicles shall be guilty of exhibition driving.

Driving in a careless or reckless manner, or exhibition driving, shall, upon conviction, be punished by a fine of not less than \$100 or more than \$200, or imprisonment in the County Jail for not more than ten days, or both a fine and imprisonment.

10-2-10 Keep to the Right in Crossing Intersection of Railroads

In crossing an intersection of highways or the intersection of a highway by a railroad right-of-way, except upon a one-way street, the operator of a vehicle shall at all times cause such vehicle to travel on the right half of the highway unless such right half is obstructed or impassable.

10-2-11 Meeting of Vehicles

Operators of vehicles proceeding in opposite direction shall pass each other to the right, each giving to the other at least one half of the main traveled portion of the roadway as nearly as possible.

Whenever any roadway has been divided into two or more clearly marked lanes for traffic the following rules in addition to all others consistent herewith shall apply.

A vehicle shall be driven as nearly as practical entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety.

10-2-12 Driving on Divided Highways

Whenever any highway has been divided into two roadways by leaving an intervening space or by a physical barrier or clearly indicated dividing section so constructed as to impede vehicular traffic, every vehicle shall be driven over, across, or within any such dividing space, barrier or section, except through an opening in such physical barrier or dividing section or space or at a crossover or intersection established by public authority.

10-2-13 Right-of-Way at Intersection

Subject to the exceptions stated in the next succeeding section, the right-of-way rule as between vehicles at intersections is hereby declared as follows:

- A. The operator of a vehicle approaching the intersection shall yield the right-of-way to a vehicle which has fully entered the intersection.
- B. When two vehicles approach an intersection at approximately the same time, the operator of the vehicle on 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.

10-2-14 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 with and as required, may make such left turn and 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.

10-2-15 Exceptions to Right-of-Way Rule

The operator of a vehicle entering a public street shall yield the right-of-way to authorized emergency vehicles when the latter are operated upon official business and the operators thereof sound audible signal by bell, siren or exhaust whistle. This provision shall not relieve the operator of an emergency vehicle from the duty to drive with due regard for the safety of all persons using the street, nor shall it protect the operator of any such vehicle from the consequence of an arbitrary exercise of such right-of-way.

10-2-16 Stop – Alley or Private Driveway

The operator of a vehicle emerging from an alley, driveway or building shall stop such vehicle immediately prior to driving onto a sidewalk area extending across any alleyway.

10-2-17 Stop – Through Streets

Every operator of a vehicle or other conveyance traversing any street intersecting any through street as designated by Ordinance, shall bring such vehicle or conveyance to a full stop at the place within fifteen feet where such street meets the prolongation of the nearest property line of such through street, subject, however, to the direction of any traffic control signs or signal or any police officer at such intersection.

The vehicle entering a through highway where there is a stop sign must yield at the right-of-way to all vehicles which are either within the intersection, or so close thereto as to constitute an immediate hazard.

The Chief of Police is hereby authorized and required to place and maintain or cause to be placed and maintained on each and every street intersecting a through street designated above, and at or near the property line of the through street, appropriate signs upon the street, and in addition there to, may place and maintain any appropriate devices or marks in the roadway, such signs, devices or marks to bear the word "Stop" and to be located in such a position and to be provided with letters of a size to be clearly legible from a distance of at least 100 feet along the street intersecting the through street. All such signs shall be illuminated at night or so placed as to be illuminated by streetlights or by the headlights of approaching motor vehicles.

10-2-18 Signs at Other Intersections

The Chief of Police is hereby authorized to place and maintain or caused to be placed and maintained at the intersection of any street or alley with any other street where in his/her discretion traffic conditions justify such action; appropriate signs bearing the word "Stop", "Yield", or other appropriate sign. Said sign shall be located in such a manner and be of such a size as to be clearly legible from a distance of 100 feet along said street or alley intersecting such stop street and shall illuminate at night or shall be placed so as to be illuminated by street lights or headlights of approaching vehicles.

10-2-19 Stopping at Railroad Stop Signs or Signals

All automatic or manually operated traffic signs at railway crossings in the City of Mobridge are hereby adopted as official traffic signs or signals. The operator of any vehicle shall heed the sign. A stop sign shall constitute the vehicle operator to make a full and complete stop.

Should a crossing become dangerous, signs placed by the Chief of Police shall be heeded, being it a stop or caution sign. Should the crossing sign be a stop sign, it shall be unlawful for the driver of any vehicle to fail to stop within fifty feet, but not less than ten feet from such crossing.

10-2-20 Turning at Intersections

- A. Right Turn: The operator of a vehicle intending to turn to the right at an intersection or into an alley or driveway shall approach the point of turning in the line of traffic nearest the right hand edge or curb of the street, and in turning shall keep as closely as practicable to the right hand curb or edge of the street.
- B. Turning Left: The operator of a vehicle intending to turn to the left at an intersection or into a driveway shall approach the point of turning lane of traffic to the right of and next to the center of the roadway, and unless otherwise directly by "turning markers" the operator of a vehicle in turning left at an intersection shall pass to the right of the center of the intersection before turning. Upon streets laned for traffic and upon on –way streets, a left turn shall be made only from the left lane of traffic
- C. Turning Markers: The Police Chief is hereby authorized to place turning; markers within or at the entrance of intersections, directing that traffic turning left shall follow a line of travel other than as directed in Subdivision B of this section. Whenever turning markers have been placed as herein provided, traffic turning left shall follow the line as directed by such markers.
- D. Turning left on "Go" Signal: The operator of a vehicle intending to turn to the left at an intersection where traffic is controlled by traffic control signals or by police officer, shall proceed to make such left turn with proper care to avoid accident and upon the green or "Go" signal, unless otherwise directed by a police officer.

10-2-21 U-Turn at Intersections

At any intersection where traffic is controlled by a traffic control signal or a police officer, or where warned by an official traffic control sign displaying the words "No U-turn" or "No Left Turn", it shall be unlawful for the operator of a vehicle to turn such vehicle at the intersection in a complete circle, or so as to proceed in the opposite direction or to make a left turn unless:

- A. An official traffic control sign displaying the words "U TURN ALLOWED" is displayed at the intersection, in which case a u-turn shall be allowed to traffic which is facing the sign to allow said traffic to complete a circle and proceed in the direction opposite from facing the sign.

10-2-22 Turning Around in Midblock Prohibited

The operator of a vehicle shall not turn such vehicle so as to proceed in the opposite direction except at an intersection.

10-2-23 Turning Movements and Required Signals

- A. No person shall turn a vehicle at an intersection unless the vehicle is in proper position upon the roadway as required in Section 10-2-35 of this chapter, 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 road unless and until such movement can be made with reasonable safety. No person shall so turn any vehicle without first giving an appropriate signal in the hereinafter provided in the event any other traffic may be affected by such movement.

- B. A signal of intention to turn right or left when required shall be given continuously during not less than the last 100 feet of travel by the vehicle before turning.
- C. 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.
- D. The driver of any vehicle which is stopped as close as practicable at the entrance to a crosswalk and to the far right side of the roadway, then at the entrance to the intersection in obedience to a red or stop signal, may make a right turn but shall yield the right of way to any pedestrian and other traffic proceeding as directed by the signal at the intersection.

10-2-24 Signals By Hand and Arm or Signal Device

Any stop or turn signal when required shall be given either by means of the hand and arm or standard approved mechanical signal device, but when a vehicle is so constructed or loaded that a hand-and-arm signal would not be visible both to the front and rear of such vehicle then said signals must be given by such signal device.

10-2-25 Method of Giving Hand-Arm Signals

All signals herein required given by hand-and-arm shall be given from the left side of the vehicle in the following manner and such signals shall indicate as follows:

- 1. Left Turn – Hand and arm extended
- 2. Right Turn – Hand and arm extended upward
- 3. Stop or decrease speed – hand and arm extended downward

10-2-26 City Council May Prohibit Use of Certain Streets

- A. That Grand Crossing Boulevard, Railroad Street, First Avenue East from railroad Street to Grand Crossing Boulevard and all of Fourth Avenue East; and First Avenue West from Railroad Street to Grand Crossing Boulevard and Sixth and Seventh Avenues West from Railroad Street to Grand Crossing Boulevard are hereby designated as truck routes, being public streets and right of way upon which truck traffic is permitted.
- B. It shall be unlawful for any person to drive a truck tractor and trailer, upon any of the public streets within the corporate limits of the City of Mobridge, SD, not designated as a truck route under Section A, except for the delivery or picking up of merchandise within said area, and he/she shall then drive to the point of delivery or pickup by the shortest and most accessible route. (822ORD2005)

- C. The City Council by motion duly passed and adopted may fix temporary or permanent load limits upon any street, alley or public right of way within the corporate limits of the City of Mobridge and upon the posting thereof it shall be unlawful for any truck, truck tractor or other vehicle to travel upon said street, alley or public right of way in excess of the load limit as posted.
- D. It shall be unlawful for any person to park a truck, truck tractor, truck tractor and trailer or any other vehicle having a rating of one ton or more upon any street, alley or public right of way not designated as a truck route under Section A of this ordinance except for such time as maybe reasonably necessary to load or unload merchandise hauled into or removed from such area, streets and/or alleys or other public rights of way, and to conduct the necessary business in connection therewith. Off street parking of such vehicles in said area may be permitted by special permit issued by the Chief of Police. (822ORD2005)
- E. It shall be unlawful for any person to operate a motorized vehicle on the walking trail adjacent to Lake Oahe. (822ORD2005)
- F. Any person, firm or corporation violating any provisions of this Section shall be deemed Guilty of a misdemeanor, and shall upon conviction thereof, be punished by a fine of \$200.00 or imprisonment in the County Jail not to exceed 30 days, or by such fine and imprisonment. Each and every violation of the provisions of this Ordinance shall constitute a separate offense. (822ORD2005)

10-2-27 - Dynamic braking prohibited:

- a) *Defined.* Dynamic braking device (commonly referred to as Jacobs Brakes, engine retarders, or Jake Brakes) 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.
- (b) *Dynamic braking devices prohibited.* It shall be unlawful for any person to drive or be in actual physical control of any motor vehicle with a dynamic braking device engaged except for the aversion of imminent danger.
- (c) *Public emergency response vehicles exception.* Any public emergency response vehicle equipped with a dynamic braking device will be allowed to use such device during a response to an emergency situation.
- (d) *Violations.* Any violation shall be subject to the general penalty set forth in Section 13-1-1. (2004ORD804)

CHAPTER 10-3 – PARKING LOTS

10-3-1 Parking Lots – Municipal

- A. No vehicle shall be parked for a longer period of time than twenty-four hours at any one location in any public parking lot owned, operated or under the control of the City.
- B. All vehicles parked in said public parking lots shall be parked at an angle to the curb in said lots as indicated by marks, signs or lines placed in said lots, with the front wheel touching the curb.
- C. No truck, wagon, automobile, or other vehicle of a greater over-all length of more than twenty feet or eight feet in width shall at any time be parked in any of said parking lots except Wrigley Square.
- D. No person shall sell or offer for sale from wagons, automobiles, trucks, or other vehicles or from stands, within any of said parking lots, any fruits, vegetables, produce, goods, ware or merchandise of any kind or character.
- E. Any vehicle parked in violation of the provisions of this chapter may be removed from said parking lot by the Police Department and placed in public storage, and the owner thereof, in addition to the fines and penalties provided by this chapter, shall pay the charges for towing and storage of said vehicle so removed by the Police Department.

10-3-2 Parking Lots- Meters

The City Council may place parking meters of such type as they may determine in any parking lots owned, operated or under the control of the City, and the City Council may by resolution provide for a schedule of fees to be charged for parking automobiles or other vehicles upon any parking lot owned, operated or under the control of the City of Mobridge and may by such resolution make regulations relative to the use of such parking lot.

10-3-3 Parking-Private Property

No person shall, without permission of the owner or lessee of any private property, leave or park any motor vehicle thereon if there is in plain view on such property a sign stating "**No Parking**".

If on any private property there is displayed a sign or signs restricting parking thereon to certain classes of persons or restricting the length of time for which a motor vehicle may be there parked, or stating restrictions both as to length of time for parking and classes of persons who may park, no person without specific permission of the owner or lessee of such property shall leave or park any motor vehicle thereon for a longer time than stated in such sign not unless the operator of such motor vehicle fall within the classification to which parking is permitted by such sign.

Any violation of the above provisions shall constitute illegal parking and upon being notified of such illegal parking by the owner or lessee of such property, the Police

Department may remove from said private property and place in public storage such illegally parked vehicles and the owner thereof shall pay the charges for towing and storage of said vehicle so removed by the Police Department in like manner as provided by this Ordinance.

10-3-4 Penalty

Any person who shall violate any of the provisions of this chapter shall upon first conviction thereof be punished by a fine set by the court, or be imprisoned for a term not exceeding thirty (30) days in a place provided by the municipality for detention of prisoners, or by both such fine and imprisonment, and each such illegal parking shall be deemed a separate and distinct offense.

CHAPTER 10-4- PARKING, STOPPING

10-4-1 Parking and Stopping Prohibited in Certain Places

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

1. Within an intersection
2. On a crosswalk
3. Within fifteen feet of inside boundary line of the sidewalk is in place, within twenty-five feet of the intersecting roadway, but this provision shall not apply to alleys.
4. Within fifteen feet of the driveway entrance to any fire station, or directly across the street from such entrance
5. Within fifteen feet of a fire hydrant
6. In front of a private driveway
7. On a sidewalk
8. Alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic.
9. Against direction of traffic
10. In such a manner or under such conditions as leave available less than ten feet of the width of the roadway for free movement of vehicular traffic except that this provision shall not apply to the operator of a vehicle stopping momentarily during the actual loading or unloading of passengers if such stopping does not actually impede traffic.

10-4-2 Parking-Limited Time

The Chief of Police is hereby authorized to designate certain spaces adjacent to any government, state, municipal, or other public building or any space in the business zone, not metered, as either ten or fifteen minute parking zones, and It shall be unlawful for any person to park any vehicle in any such zone so designated for a longer period than indicated by the signs, and it shall be the duty of the Chief of Police to erect and maintain at the ends of such zones adequate sign indicating the limitation for parking accordance with the provisions of the section.

10-4-3 Loading Zones

The Chief of Police is hereby authorized to designate a certain space or zone in each block and area or on any street in the City of Mobridge not exceeding 72 feet in any one block to be known as a passenger or loading or unloading zone in which zone so designated it shall be unlawful to park any vehicle, except for the purpose of loading or unloading zone in which zone so designated it shall be unlawful to park any vehicle, except for the purpose of loading or unloading merchandise or passengers between the hours of 9:00 o'clock a.m. and 6:00 o'clock p.m. on any day excepting Sundays and holidays and it shall be the duty of the Chief of Police to erect and maintain at the ends of each zone appropriate signs with the words "Loading or passenger Zone" "No Parking between the hours of 9:00 O'clock a.m. and 6:00 o'clock p.m. excepting Sundays and holidays"

10-4-4 Taxicab Stands, Bus Stands

The Chief of Police is hereby authorized to designate at such places as he deems proper cab or bus stands and shall erect in such zones or stands adequate signs indicating the extent of such zone, and it shall be unlawful for any vehicle other than a licensed taxicab or bus to park in any such area.

10-4-5 No Parking and Time Restricted Parking Zones

(a) The Chief of Police is hereby authorized to establish no parking or time restricted parking zones or areas upon one or both sides of any street or avenue when parking in such zones or areas would, in his or her opinion, interfere with traffic, create a hazardous condition, or be contrary to the public interest.

(b) Any permanent No Parking zones or areas shall be indicated by either painting the curb adjacent thereto with a solid yellow stripe or by posting signs along such zones indicating "No Parking or No Parking This Side of Street" or similar language and no parking shall be allowed at those areas at any time.

(c) Any time restricted zones or areas shall be indicated by adequate signs indicating the time limitation for parking and shall be placed at the ends of each such time restricted area or zones and no parking shall be allowed in those areas during the times designated by said signs.

(d) It shall be unlawful for any vehicle park or remain parked on a street or avenue which has been identified as no parking or time restricted parking as set forth herein and may be removed by the Police Department or the Street Department and the owner thereof, in addition to the other penalties prescribed for the violation of a city ordinance, shall be required to pay the cost of towing, removal and storage of said vehicle.

10-4-6- Alleys

It shall be unlawful for any person to park any vehicle in any public alley within the zone of the fire limits of the City of Mobridge, as may now or may

hereafter be fixed by ordinance of the City of Mobridge except that trucks and other vehicles may stop in such alleys for the purpose of erecting and maintaining signs at the entrance of such alleys, where parking is prohibited as designated by the provisions of this section.

10-4-7 Parking –Theaters

It shall be unlawful for any person to park any vehicle in that portion of the street immediately adjacent to and in front of any theater or moving picture house and the extent of such restricted parking area shall be marked out by the Chief of Police and he shall erect and maintain “No Parking” signs at the ends of such restricted areas.

10-4-8 Parking-Double Parking

It shall be unlawful for the operator of any vehicle to stop, stand or park such vehicle on the roadway side of any other vehicle stopped or parked at the edge of the curb of a street except temporarily engaged in the loading or unloading of passengers or materials.

10-4-9 Parking – Snow Removal

In order that the Street Department may efficiently clean the streets and avenues in the City of Mobridge, it shall be unlawful for any person to park any vehicle on the following streets after a snowfall of three inches or more until the City has plowed the streets:

- 1: 10th Ave. West north from US 12 (Grand Crossing) to 20th Street.;
- 2: 12th St from the east City limits to 10th Ave. West.;
3. Railroad Street from the west City limits to 7th Ave. East.;
4. 8th Street east from 10th Ave. West. to east City limits;
5. Main Street from Railroad St. north to US12 (Grand Crossing)
6. 4th Ave. East from south City limits to north City limits;
7. 7th Ave. East. from south City limits to US12 (Grand Crossing).

It shall also be unlawful for any person to park any vehicle or allow any vehicle to remain on any roadway designated as an avenue of the City during the A.M. within 2 hours after a snow alert is issued by the Chief of Police which is first announced and broadcast on the KOLY radio station, until such time as the City has plowed the snow from said avenue.

It shall also be unlawful for any person to park any vehicle or allow any vehicle to remain on any roadway designated as a street of the City during the P.M. within 2 hours after a snow alert is issued by the Chief of Police which is first announced and broadcast on the on KOLY radio station, until such time as the City has plowed the snow from said street.

Any vehicle parked in violation of any of the provisions of this section may be removed by the Police Department or the Street Department and the owner thereof, in addition to the other penalties prescribed for the violation of a city ordinance, shall be required to pay the cost of towing, removal and storage of said vehicle.

For the purpose of this section, the term vehicle shall include all motorized vehicles and all boats, trailers and campers.

10-4-10 Snow Removal – Obstruction of View

No person shall pile, accumulate, or permit snow piles or other objects to obstruct the view of a public street within any of the following areas:

1. Between a public street and the adjacent sidewalk.
2. The area between a public street and 13 feet back from the public street.
3. Within 25 feet from the corner of any intersecting streets or alleys.

For the purpose of this ordinance, accumulations of snow in excess of 4 feet high shall be deemed obstructing the view of a public street. Any violation of this ordinance shall subject the violator to the penalties set forth in these ordinances, and in addition shall be deemed a continuing nuisance and shall be abated by the City and the cost of such abatement shall be assessed to the abutting lot, piece, or parcel of land. (1996 ORD 730; 9.0206)

10-4-11 Parallel and Diagonal Parking

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

10-4-12 Removal of Cars Illegally Parked

Any vehicle parked in violation of this chapter may be removed from the streets by the police Department and placed in public storage, and the owner thereof, in addition to the fines and penalties provided in this title, shall pay the charges for towing and storage of said vehicle so removed. All money so collected by the Police Department shall be immediately deposited with the City Finance Officer. Neither the City of Mobridge nor any person shall have any liability for any damage, which may be done to any motor vehicle, or other vehicle so removed, as long as reasonable care is used in removing such motor vehicle.

The Police Department may issue a tag for violation in lieu of removal of the said vehicle, and such offense shall constitute a misdemeanor under these ordinances. (2001 ORD 774)

10-4-13 Unloading of Merchandise – Permits

- A. The Chief of Police is hereby authorized to issue, to any owner of a vehicle used to transport merchandise or materials, a special permit, renewable annually, and to state therein the terms and conditions thereof, allowing the operator of such vehicle the privilege of loading or unloading while the vehicle is backed against the curb if in the opinion of the Chief of Police such privilege

is reasonably necessary to conduct of the owner's business and will not seriously interfere with traffic.

- B. In places where, and at hours when, stopping for the loading or unloading of merchandise or materials is permitted, vehicles used for the transportation of merchandise or materials may back into the curb to take on or discharge loads, when the owner of such vehicle holds a permit granting him such special privilege, and provided further that such permit shall be either in the possession of the operator or on the vehicle at the time such vehicle is backed against the curb to take on or discharge a load, and it shall be unlawful for any owner or operator to violate any of the special terms or conditions of any such special permit.

CHAPTER 10-5 – SIGNS AND SIGNALS

10-5-1 Signs and Signals – Type

- A. The city Council shall by resolution determine and designate the character or type of all official traffic signs and signals; provided, that all traffic signs and signals now erected and in operation are hereby designated official traffic signs and signals. Subject to this selection, the Chief of Police is hereby authorized, and as to those signs and signals required hereunder, it shall be his or her duty, to place and maintain or cause to be placed and maintained all official traffic signs and signals. All signs and signals required hereunder for a particular purpose shall be as approved by the City Council and as far as practicable, standard throughout the City.
- B. No provisions of this title for which signs are required shall be enforceable against an alleged violator is, at the time and place of the alleged violation, the sign herein required is not in proper position and sufficiently legible to be seen by an ordinarily observant person.

10-5-2 Obedience to Traffic Signs and Signals

It shall be unlawful for any operator to disobey the instructions of any official traffic sign or signal upon the street placed in accordance with the provisions of this title, unless otherwise directed by a police officer.

10-5-3 Traffic Control Signals

Whenever traffic is controlled by traffic control signals exhibiting successively one at a time, the color green for go, yellow or amber for caution, red for stop, or flashing signals, traffic shall be regulated and controlled thereby as follows:

- A. Green means go.** Vehicular traffic facing a green signal may proceed straight through or may turn right or left if said traffic control signal is at an intersection, unless such turn at such place be otherwise prohibited, but vehicular traffic shall yield the right-of-way to other vehicles and pedestrians, lawfully within the roadway intersection or facing the green signal may proceed across the roadway within any marked or unmarked crosswalk.

B. Yellow, or Amber, when used following the green signal means caution. Vehicular traffic facing yellow or amber signal shall stop before entering the nearest crosswalk, except that if such stop cannot be made in safety, a vehicle may be driven cautiously through the roadway, intersection or crosswalk controlled by said signal. Pedestrians facing the yellow or amber signal are thereby advised that there is not enough time to cross the roadway and they shall remain on the curb line and not proceed across the roadway controlled by said signal until the next green signal appears.

C. Red means stop. Vehicular traffic facing the red signal shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, and shall remain standing and shall not enter the intersection or roadway to the front until the green signal is shown. Pedestrians facing the red signal shall not proceed across the roadway to the front until the next green signal appears.

D. A flashing red signal means stop. Vehicular traffic facing the flashing red signal shall first stop before entering the nearest crosswalk at an intersection or at a limit line when marked, and then proceed with caution and with regard to the rules of right-of-way.

E. A flashing yellow or amber signal means caution. Vehicular traffic facing the flashing yellow or amber signal may proceed through the intersection or pass such signal only with caution.

10-5-4 Display of Unauthorized Signs and Signals Prohibited

It shall be unlawful for any person to place or maintain or to display upon or in view of any street any unofficial sign, signal or device which purports to regulate or to curtail parking or which attempts to direct the movement of traffic, or for any person to paint marking or legends upon any curb or curbing, purporting to indicate a restricted or limited parking zone and every such prohibited sign, signal, device or marking is hereby declared to be a public nuisance, and the Chief of Police is hereby empowered to remove the same or cause it to be removed without notice.

10-5-5 Interference with Signs and Signals Prohibited

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

10-5-6 City Council Authorized to Designate Crosswalks

The City Council is hereby authorized and empowered to establish and to designate and shall thereafter maintain, by appropriate devices, marks or lines upon the surface of the roadway, crosswalks approximately equal in width to the adjacent sidewalk at all intersections where in its opinion there is particular danger to pedestrians crossing the roadway.

10-5-7 City Council Authorized to Designate Safety Zones and Lanes for Traffic

- A. The City Council is hereby empowered to establish safety zones of such kind and character and at such places, as it may deem necessary for the protection of pedestrians.
- B. The City Council is also authorized to mark lanes for traffic on street pavements at such places as it may deem advisable, consistent with the provisions of this title.
- C. The City Council is authorized to make handicapped parking spaces available on any public street.

10-5-8 Curb Markings – Solid Yellow

Wherever in any street or avenue the curb is painted with a solid yellow stripe by or under the direction of the Chief of Police, such stripe or marking shall indicate a “No Parking” area or zone, and it shall be unlawful for any person to park a vehicle adjacent to such marking.

10-5-9 Curb Markings – Broken Yellow

Wherever in any street or avenue the curb is painted with a solid yellow stripe by or under the direction of the Chief of Police, such broken stripe or marking shall indicate a limited parking area or zone, the extent of such limitation to be indicated by signs at the end of each such limited area or zone and it shall be unlawful for any person to park a vehicle adjacent to such limited parking zone for a longer period than indicated upon said signs.

10-5-10 No Left-Turn Signs

The Chief of Police is hereby authorized to place or have placed under his direction at any intersection and at such hours as he deems proper, signs indicating no left turn, and it shall be unlawful for the operator of any vehicle to make a left turn at such intersection when such signs are in place.

CHAPTER 10-6 – PEDESTRIANS

10-6-1 Pedestrian’s Right-of Way

- A. The operator of any vehicle shall yield the right-of-way to a pedestrian crossing roadway within any marked cross walk or within any unmarked crosswalk at the end of a block, except at intersections where the movement of traffic is being regulated by police 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.
- C.

10-6-2 Crossing Streets

It shall be unlawful for a pedestrian to cross a roadway at any point other than within a marked or unmarked crosswalk in the business district as defined in this title or on any federal highway.

10-6-3 Pedestrians Rights and Duties at Controlled Intersections

Whenever stop signals or flashing red signals are in place at an intersection or a marked crosswalk between intersections the pedestrians shall have the right-of-way over drivers of vehicles and at such marked places drivers of vehicles shall stop before entering the nearest crosswalk and any pedestrian within or entering the crosswalk at either edge of the roadway shall have the right-of-way over any vehicle so stopped.

The driver of a vehicle shall stop before entering any crosswalk when any vehicle proceeding in the same direction is stopped at such crosswalk for a purpose of permitting a pedestrian to cross.

10-6-4 Pedestrians to Obey Traffic Signals

At intersections where traffic is directed by a policeman or stop-and-go signals, it shall be unlawful for any pedestrian to cross the roadway other than with released traffic and pedestrians shall obey all traffic signals and directions.

10-6-5 Boarding or Alighting from Vehicles

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

CHAPTER 10-7 - MISCELLANEOUS PROVISIONS

10-7-1 Railway Crossing - Blocking Streets

It shall be unlawful for the directing officer or the operator of any railway train or car to direct the operation of or to operate the same in such manner as to prevent the use of any street for purposes of travel for a period of time no longer than five minutes, except this provision shall not apply to trains or cars in continuous motion.

10-7-2 Accident Reports - Personal Injury

The driver of any vehicle involved in an accident resulting in injury to or death of any person shall immediately stop such vehicle at the scene or such accident or as close thereto as possible but shall then forthwith return to and in every event shall remain at the scene of the accident until he has fulfilled the requirements of Section 10-9-4. Every such stop shall be made without obstructing traffic more than is necessary.

10-7-3 Accident Reports - Property Damage

The driver of any vehicle involved in an accident resulting in vehicle damage only shall immediately stop at the scene and report such incident to the police. The driver

shall remain at the scene until they have fulfilled the requirements of section 10-7-4. Every stop shall be made without obstructing traffic as much as possible.

10-7-4 Accidents - Duty to Give Information

The driver 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 or her name, address and the registration number of the vehicle he or she is driving, and shall upon request and if available, exhibit his or her operator's or chauffeur's license to the person struck or the driver or occupant of or person attending any vehicle collided with, and shall render to any person injured in such accident reasonable assistance, including the carrying, or the making of arrangements for the carrying of such person to a physician, surgeon or hospital for medical or surgical treatment if it is apparent that such treatment is necessary or if such carrying is requested by the injured person.

10-7-5 Accident - Unattended Vehicle

The driver of any vehicle which collides with any vehicle which is unattended shall immediately stop and shall then locate and notify the operator or owner of such vehicle striking the unattended vehicle or shall leave in a conspicuous place in the vehicle struck a written notice giving name and address of the driver and of the owner of the vehicle doing the striking and a statement of the circumstances thereof. Police are to be notified of any and all accidents taking place within the City limits of Mobridge.

10-7-6 Accident - Duty Upon Striking Fixtures

The driver of any vehicle involved in an accident resulting only in damage to fixtures or 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 his name and address and of the registration number of the vehicle he is driving and shall upon request and if available exhibit his operator's license and shall make report of such accident when and as required by ordinance or statute.

10-7-7 Immediate Notice of Accident

The driver of a vehicle involved in an accident resulting in injury to or death of any person or property damage to an apparent extent of \$10.00 or more shall immediately by the quickest means of communication give notice of such accident to the police department.

10-7-8 Garage Keeper to Report Damaged Vehicles

The person in charge of any garage or repair shop to which is brought any motor vehicle which shows evidence of having been involved in a serious accident or struck by any bullet shall report to the Police Department of the City within twenty-four hours after such motor vehicle is received, giving the engine number and the name and address of the owner or operator of such vehicle.

10-7-9 Evidence of Traffic Violations

In any proceeding for violations of the provisions of this Title relating to the operation or parking of motor vehicles, the registration plate displayed on such motor vehicle shall constitute in evidence a prima facie presumption that the owner of such motor vehicle was the person who was operating or parked such vehicle at the point where such violation occurred.

CHAPTER 10-8 SNOWMOBILES

10-8-1 Designation of Through and Access Routes

That all snowmobiles operated and driven within the limits of the City of Mobridge, SD shall be driven and operated as herein provided. The following public streets, alleys and rights of way are hereby designated as snowmobile through, access, and entrance and exit routes in the City of Mobridge, SD.

(A) Through Routes:

1. Railroad Street from the West City limits to the East City limits.
2. Twelfth Street from the East City limits to the West City limits.
3. Seventh Avenue East from East Railroad Street North to Second Street East thence East on Second Street East to the East City Limits.

(B) Access Routes:

All North-South Public alleys for use only by an owner, lessee or operator of a snowmobile to travel to or from his residence, business or snowmobile center and to the most accessible through route when leaving or returning to the City.

10-8-2 Unlawful Place of Travel - Emergencies

It shall be unlawful to operate or drive a snowmobile on or upon any public street, alley or right of way in the City of Mobridge, SD except designated snowmobile through and/or access streets and alleys as herein designated under this Chapter; except, for emergency use in major use in major snowstorms, blizzards or other emergency conditions for required protection of the health and welfare of the City residents.

All emergency use shall be under the direct supervision and control of the Chief of Police, Civil Defense Director, and/or other designated official and/or officer. Emergency use and operation and use shall terminate as of the time designated by the officer in control, during such emergency operation.

10-8-3 Emergency Snowmobiles

All snowmobiles used in emergency operations under this Chapter shall be equipped with headlights and taillights and the driver/operator shall have a valid South Dakota driver's license.

10-8-4 Travel Prohibited on Public Streets, Alleys and Rights-of-Way

A snowmobile shall not be driven or operated upon the public streets or alleys of the City of Mobridge, except the streets and alleys herein designated as through routes and access routes. Travel on designated through routes and access routes may only be had by the operator of a snowmobile when necessary to travel, and then only by the shortest and most accessible route, to and from his residence, his business, a snowmobile service center or to and from the City limits.

Snowmobiles may not be operated or driven upon any public street or alley including designated through and access routes, or upon any private or public property within the City limits of the City of Mobridge, between the hours of 11:00 o'clock p.m. and 7:00 o'clock a.m. the following day, except in the case of emergencies as herein provided.

10-8-5 General Provisions for Snowmobiles

A. A snowmobile shall at no time be operated or driven within the City of Mobridge at a speed in excess of 15 miles per hours.

B. Snowmobiles shall at all times abide by all traffic laws, rules and regulations for the travel of motor vehicles; and in addition thereto, must stop before entering or crossing any public street, alley, or street and alley intersection whether or not stop signs or electric controlled signs, shall be posted at said intersection.

C. It shall be unlawful to drive or operate a snowmobile upon any City, School, or other public or private property at any time, with or without the permission of the owner, unless the operator shall first secure permission from the Chief of Police.

D. It shall be unlawful to drive or operate a snowmobile upon any sidewalk or designated sidewalk space public or private, except for necessary crossing, in traveling through and access routes or in gaining access to and from the owner, or operator's residence, business or a snowmobile service center, or the City limits.

E. It shall be unlawful to drive or operate a snowmobile in a careless or reckless manner, or in such a manner as to constitute exhibition driving, or in such a manner or at such a speed as would endanger other persons or property.

F. It shall be unlawful to drive or operate a snowmobile while under the influence of intoxicating liquor or any other exhilarating or stupefying drug.

G. It shall be unlawful to drive or operate a snowmobile carrying a gun or any other firearm or firearms, either in or upon the snowmobile, or upon the person of any operator or any other persons riding therein.

H. It shall be unlawful to tow any person or objects, except a disabled snowmobile, or in the case of an emergency, and in such event the driver-operator, shall at all times use due care and caution for the safety of the person and/or object being towed, and in due regard of the rights and safety of other persons and property.

I. All snowmobiles operated within the City limits shall be equipped with and have in operation at all times while being driven within the City limits, mufflers, brakes, a dead-man throttle and at least one headlight and taillight on.

J. All snowmobiles being driven and operated on designated snowmobile through routes and access routes shall be required to display a red or orange pennant flag on a flexile antenna, or red antenna extending not less than five feet above the ground, to be mounted at the rear of said snowmobile. The flag or pennant displayed shall be not less than six inches by nine inches and attached to the top of the antenna or rod.

K. It shall be unlawful for any owner or operator of a snowmobile to leave the same unattended while the motor is running and/or to leave the keys for starting the snowmobile in the ignition.

10-8-6 Registration and Licensing

All snowmobiles operated within the City of Mobridge shall have attached thereto a state license, and all owners of snowmobiles living within the City of Mobridge, shall, before operating said snowmobile within the City limits of said City, register the same with the Chief of Police.

10-8-7 Drivers License

No person shall be permitted to drive or operate a snowmobile within the City of Mobridge, South Dakota without having upon his person and in his possession a valid South Dakota motor vehicle driver's license.

10-8-8 Declaring Emergencies

The Chief of Police, and/or mayor, shall, at all times have power and authority to declare an emergency and grant supervised emergency operation of snowmobiles as herein provided; and shall determine when such emergency terminates.

10-8-9 Special Permits

The City Council, by official action, taken at any regular or special meeting, may grant special permits for special use or operation of snowmobiles for any specific purpose or occasion, or upon any specific public property, or with the permission of the owner of private property, which special permit shall temporarily suspend the requirements of this Ordinance in so far as the privileges granted therein; and as the same shall relate to operation of snowmobiles by persons referred to in the permit.

10-8-10 Copies of Ordinance and Regulations

It shall be the duty of the City Finance Officer and Chief of Police to have available for distribution to all persons requesting same, printed copies of this Ordinance or any addition or amendment thereto; the Chief of Police shall deliver copies thereof to all snowmobile sales and service centers in the City of Mobridge, who shall deliver copies thereof to all purchasers and/or lessees of snowmobiles at the time of purchasing or leasing, and delivery of said machine to said purchaser or lesser.

10-8-11 Penalty for Violation

Any person or persons violating any of the provisions of this Ordinance or failing to comply with the provisions thereof, shall be deemed guilty of a misdemeanor and shall, on conviction thereof, be punished by a fine not to exceed \$200.00, or both such fine and imprisonment, and, the Court at its discretion may suspend the driving and operating of a snowmobile privilege of said person in the City of Mobridge, for a period of time not to exceed 60 days.

CHAPTER 10-9 SPEED

10-9-1 General Restrictions

It shall be unlawful for any person to drive a vehicle on a street or highway at a speed greater than is reasonable and prudent under the conditions then existing or at a speed in excess of those fixed by this chapter or established by the City Council as hereinafter set forth. (1998 ORD 749)

10-9-2 Speed Zones- Establishment

- A. The City Council is authorized and empowered to determine and establish upon any street or highway within the City or any part thereof, limited speed zones which speed limit shall constitute the maximum speed at which any person may drive or operate any vehicle upon zone, street or highway or portion thereof so zoned, and on which highway the maximum speed permissible in said zone has been conspicuously posted by signs adopted by the City Council.
- B. The beginning and end of such limited speed zones shall be indicated by signs showing the speed limit.

The City Council may change the speed limit or the extent of any such limited speed zone at any time they may deem necessary. (1998 ORD 749)

10-9-3 Speed- Limitations

Where no special hazard exists on any section of a street or highway which section is not zoned and posted as hereinbefore provided, the following speeds shall be lawful, but any speed in excess of said limits shall be unlawful and shall be prima facie evidence that the speed is not reasonable or prudent

- A. Fifteen miles an hour when approaching within fifty feet of any railway when the driver's view is obstructed. A driver's view shall be deemed to be obstructed when at any time during the last two hundred feet of his approach to such crossing he does not have a clear and uninterrupted view of such railway for a distance of four hundred feet in each direction of such crossing.
- B. Fifteen miles an hour when passing a school house or grounds during recess or while children are going to or leaving school during opening or closing hours.
- C. Fifteen miles an hour when approaching within fifty feet and in traversing an intersection of highways when the driver's view is obstructed. A driver's view shall be deemed to be obstructed when at any time during the last fifty feet of his approach to such intersection, he does not have a clear and uninterrupted view of such intersection and of the traffic upon all of the highways entering such intersection for a distance of two hundred feet from such intersection; provided, however, that this restriction shall not apply to through streets where intersection stop signs are posted.
- D. Fifteen miles an hour in any public park; provided, that the Park Board or other local authority may, by duly posted notices, fix a lower rate, in which case such rate of speed as so posted shall not be exceeded.

- E. Twenty miles an hour on any street or highway, either in the business or residential district, except as may be herein increased or modified, provided, that the City Council may, by duly posted notices, fix a lower rate, in which case such rate of speed as so posted shall not be exceeded. Five miles an hour on any alley. (2007 ORD849) (2006 ORD 837)
- F. It shall be prima facie unlawful for any person to exceed any of the foregoing speed limitations except that the City Council is hereby authorized in its discretion to increase the speed which shall be prima facie lawful upon certain portions of federal highways as required by federal regulations, provided that there shall be placed adequate signs giving notice of such special regulations.
- G. The speed limits set out in this section shall not apply to authorized emergency vehicles when responding to emergency calls provided that the driver thereof shall sound audible signals by siren or horn. This provision shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the street. (1998 ORD 749)

CHAPTER 10-10 CONDITION OF VEHICLES

10-10-1 Muffler Cutouts Regulated

- A. No person shall drive a motor vehicle on a highway unless such motor vehicle is equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke. The use of "Smitty" or "Hollywood" mufflers or other devices of like character which make loud noises or explosions are hereby declared unlawful.
- B. It shall be unlawful to use a muffler "cutout" on any motor vehicle on a highway. (1998 ORD 749)

10-10-2 Brakes

Every motor vehicle operated or driven upon any of the streets, alleys or avenues of this city shall be provided with adequate brakes in good working order sufficient to control such motor vehicle at all times when the same is in use. (1998 ORD 749)

10-10-3 Lights

Every motor vehicle operated or driven in the City of Mobridge shall, during the period of from one hour after sunset and one half hour before sunrise, display lighted lamps as required by SDCL § 32-17-1. (1998 ORD 749)

10-10-4 Horns

Every motor vehicle operated or driven in the City of Mobridge shall be provided with a suitable or adequate horn or other device for signaling which shall be in good working order at all times said vehicle is operated on the streets of the City of Mobridge. (1998 ORD 749)

10-10-5 Flags or Light at End of Load

Whenever the load on any vehicle shall extend more than four feet beyond the rear of the bed or body thereof, there shall be displayed at the end of such load in such as to be cleanly visible at all times from the rear of such vehicle a red flag not less than twelve inches both in length and width, except at between one-half hour after sunset and one-half hour before sunrise there shall be displayed at the end of such load a yellow or red light plainly visible under normal atmospheric conditions at least two hundred feet from the rear of such vehicle. (1998 ORD 749)

10-10-6 License Plates

No person shall operate or drive a motor vehicle within the City of Mobridge without having conspicuously displayed thereon number plates or plate as required by the statutes of the State of South Dakota, securely fastened, and shall be kept free from mud, dirt, or other obstruction so that said number plate or plates shall be clearly legible by other persons upon said highway. (1998 ORD 749)

10-10-7 Windows and Windshields-Obstructions

The windshield and the front side windows of any vehicle operated on the streets of the city of Mobridge shall at all times be free and clear of any ice, frost, snow, stickers, signs, placards or anything else which would in any manner tend to obstruct or hinder the view of the driver. (1998 ORD 749)

TITLE 11 – WATER AND SEWERS

CHAPTER 11.1 – WATER

CHAPTER 11.2 – WATER RATES

CHAPTER 11.3 – SEWER AND WATER CONNECTIONS – SPECIAL FEES

CHAPTER 11.4 – SEWERS

Chapter 11-1 Water

11-1-1 Installation of Meters

The City of Mobridge, through the Water Department, shall have the right to at any time install a meter on any service connected with the City Water mains and from the time of such installations the meter rates established by the Ordinance of said City shall affect and apply to water delivered through such service; provided, that if the water rates for such premises shall have been paid in advance at existing flat rates, a credit for the expired time for such advance payment in proportion to the whole time thereof, shall be allowed upon meter rates.

Water meters up to and including three quarter inch shall be furnished and installed by the City, free of charge to the consumer, but any meters larger than a full three quarter inch meter, shall be furnished and paid for by the user and installed by the City; provided, however, that any meters so furnished by the users shall be of such kind and quality as specified and approved by the Water Department of the City of Mobridge.

- A. The City shall charge a consumer service fee of \$25.00 for turning on the water during business hours and \$50.00 for doing so during non-business hours. Where only a meter reading is required on a new service because the water was not previously turned off, the City shall charge the consumer \$15.00 during business hours and \$30.00 during non-business hours. No part of this service charge is refundable.

11-1-2 Duty and Responsibility of Owner or Occupant

A suitable place, safe from frost or other damage and accessible for examination must be provided for said meter at the expense of the owner or occupant, and in all cases where the meter is injured by freezing or were it is otherwise damaged by the act or neglect of the owner or occupant of the premises or of his agent or servants, the cost of repairing or replacing the same shall be paid by the owner or occupant, and in case of neglect or refusal to pay the same on demand, the water supply may be turned off, and shall not be again turned on until such cost and penalty of \$25.00 for turning off and on are paid.

11-1-3 Each Building to Have Separate Cut-Off

Every separate building must have its own separate cut-off placed at the outside edge of the sidewalk or in the alley; provided, that when two or more buildings are already supplied through one service connection and one cut-off, such service may be continued until separate services and cut-offs are ordered, but if the water rates for any of said buildings shall become delinquent and so remain for a period of fifteen days, the water supply may be cut off from all of said buildings and shall not be again turned on

until such delinquent rates and a penalty of \$25.00 for turning on and off are paid. The Water Department may order separate service connections for any such buildings so already supplied through one service if or whenever the City main has been laid in the street adjacent to said building.

11-1-4 One Meter

The supply of water through each separate service must be recorded by one meter only, for which only one bill will be rendered by the City. If additional or auxiliary meters are desired for recording the subdivision of such supply, they must be furnished and set by the owner or consumer at their own expense and they must assume all responsibility of maintaining and reading the same.

11-1-5 Notice

In case of the breakage or stoppage or any other irregularity in the meter installed by the City, the owner or consumer is to immediately notify the Water Department and any necessary repairs will be made under its supervision.

11-1-6 Testing Meters on Request of Consumer.

Upon the written request of any owner or consumer, the Water Department will test the meter supplying the premises. The owner or consumer may, if desired, be present when the test is made. The result of the test will in all cases be reported to the owner or consumer requesting the test. If the test of the meters shows that it fails to register correctly within two percent on a flow equal to one-eighth of the diameter of the service, the water department shall make a charge or allow a credit in proportion to the error for all water registered in excess of the minimum amount allowed by the established rates.

11-1-7 Protection of Meter

Where a meter has been placed on a pipe connected to a boiler or other hot water apparatus, a check valve must be placed between such meter and the boiler or hot water apparatus which shall protect such meter from back pressure of steam or hot water. In case the meter shall be damaged by hot water or steam, the owner or occupant of the premises shall pay for such damages.

11-1-8 City Not Liable for Damages

The City of Mobridge will not be responsible for damages caused by the breaking of a meter or from any accidents resulting from variation in water pressure or the ram of the water in the mains.

11-1-9 Penalty for Interference

Every Person who shall break or deface the seal of any water meter, or who shall obstruct, alter, injure or prevent the action of any water meter, or who shall make any connection by means of a pipe or otherwise with any main or pipe used for the delivery of water to a consumer in such manner as to take water from said main or pipe used for

the delivery of water to a meter, or who shall use any water so obtained, or who shall with intent to defraud, make any connection or reconnection with such main or pipe, or turn it on or off or in any manner interfere with any valve, stop cock or other appliance connected therewith, shall upon conviction thereof be fined not less than \$75.00 not more than \$100.00 or be imprisoned not more than thirty days, or be subjected to both such fine and imprisonment, in the discretion of the Court.

11-1-10 Permits

No person, firm or corporation shall make any extension to or alteration of any water tap, main pipe or other fixture without first having obtained a written permit so to do, and a full report of such work must be made within 24 hours after the completion of said work.

The Owners of property desirous of using water from the municipal disturbing pipes shall make application in writing, either by themselves or their authorized agents, to the Superintendent of Waterworks. The applicant to state the size of the tap, kind of service pipe to be used and the description of the premises and name of the owner.

Such application to be accompanied by the connection or tapping fee in the sum of One Hundred Thirty-Five Dollars (\$135.00) for a three quarter (3/4) inch tap; the sum of Two Hundred Seventy-Five Dollars (\$275.00) for a one inch tap. (2005ORD820) (2002 ORD 791)

11-1-11 Depth of Service Pipes

Within the limits of the street, service pipes shall in no case be laid at a depth less than six feet below the lowest part of the gutter. The water and sewer lines may be in the same trench if kept 12" apart per the National Plumbing Code (10-6).

11-1-12 Curb

There shall be a brass curb-cock in each service pipe under the exclusive control of the City Council. Said curb-cock shall be placed in the pipe on the outer side of the sidewalk, just inside the curb or at the alley line, and no person not a direct employee of said City Council shall open or close or otherwise interfere with said curb-cock. Such curb-cock shall be provided with a box or tube of approved pattern, and the top of each box or tube shall be placed on the level with the grade of the sidewalk or alley, and no premises shall be supplied without said box being in good order. In case of neglect or refusal of the occupant or owner to provide or repair the box within a reasonable time, when notified, the Water Department shall cause it to be done and charge the expense against the premises, to be collected with the bill of supply of water that shall become due against said premises. Each service pipe must be furnished with a stop-cock and waste below the action of the frost, so situated that the water can be conveniently shut off and drained from the pipe to prevent freezing. There shall also be a stopcock in every attachment located at the first suitable point beyond the street or alley limits to enable consumers to turn the water off in case of accident to the pipes on the premises.

11-1-13 Guarding Excavations

No excavation in any street or public place shall be left open over night, except in cases of necessity in which the Water Department must maintain suitable barriers and signals of warning during the night.

11-1-14 Return of Plumber

All plumbers shall make full returns of the ordinary and special uses to which water is designated to be applied under any permit granted by the City, with a description of all apparatus and arrangements for using the water in every case. This return is to be made by the plumber who does the work, within forty-eight hours after the completion of said work, to the City Water Department. For any misrepresentations or omissions in the statement of the work done, or appurtenance set, through which there may be water used, the plumber may be suspended or his license may be revoked.

11-1-15 Penalties

Any person who shall lay any water service pipe or introduce into or about any building or on any grounds, any water pipes, or do any plumbing work in any building or on any grounds for the purpose of connecting such pipes or plumbing with the pipes of the City Waterworks, or preparing them for such connection with a view of leaving such premises supplied with water by such water-works, or who shall make any addition to or alterations of any water pipes, water

closet, stop-cock or other fixtures or apparatus for the supply of any premises with water without first having obtained a permit in writing for doing such work from the Water Department in the City of Mobridge, shall be subject to fine as provided in this Ordinance.

11-1-16 Rent Must Be Paid Before Water Turned On

The water will not be turned on in any house or private service pipe, until the applicant shall have paid the rent due and shall exhibit his receipt therefore.

11-1-17 Right of Access to Premises for Inspection

The Chief of Police or such other person as he or she may direct shall be authorized to enter and have free access at all reasonable hours to premises, to ascertain the location or condition of all hydrants, pipes or other fixtures attached to the waterworks; and in case he or she finds waste on account of negligence or want of repairs, and if such waste is not immediately remedied, the water leading to such premises shall be turned off. It shall be the duty of said officers, in case they discover any defect in the private service pipe or in the street, to give notice in writing to be left at the premises, and if necessary repairs are not made within twenty-four hours thereafter, the water shall be turned off, and shall not be turned on again until the sum of \$25.00 has been paid to the Finance Officer of the City of Mobridge.

11-1-18 **Must Repair Connections**

Persons taking water from the distributing pipe must keep their service and fixtures connected therewith in good repair and protected from frost at their own expense, and must prevent all unnecessary waste, or the water will be shut off. No abatement shall be allowed from the price charged or agreed upon by reason of the breaking, nor will the City of Mobridge, its Mayor or City Council, in any case be liable or responsible for any damage growing out of the stoppage of such water or any insufficient supply of the same as the quality or quantity. All persons using water from the waterworks for any purpose whatever will do so at their own risk.

11-1-19 **Notice to Discontinue**

Any person desirous of discontinuing the use of water must give notice in writing to the Water Department, on or before the day to which the rent has been paid, or they will be charged with water rent to the next rent day.

11-1-20 **Service Pipes Supplying More Than One**

Service pipes intended to supply two or more distant premises must be provided with separate curb-cocks and shut-off boxes for each premises on the outside of the lot line, or when only one curb-cock is used, the person or persons controlling the same must pay the water rent of the parties who are thus supplied, as separate water rates will not be made without separate curb-cocks.

11-1-21 **Laying Larger Pipes for Fire Protection**

When proprietors of lumber yards, manufacturers, halls, stores, hotels or public buildings, regular customers from the waterworks, wish to lay larger pipes with hydrants and hose coupling, to be used only in case of fire, they will be permitted to connect with the street main at their own expense, upon application for permit to the City Water Department, and under the direction of the City Council, will be allowed to use the water, for fire purposes only, free of charge. No standpipe will be allowed on the premises where water is not taken for other than fire purposes.

11-1-22 **Unnecessary Waste of Water**

Hydrants, taps, hose, water closets, urinals, bath and other fixtures will not be permitted to be kept running when not in use, and it is hereby made the duty of the Water Department to enforce this section, and also to notify the consumers of the unnecessary waste of water on their premises. If within forty-eight hours after being so notified that water is being wasted, the necessary repairs are not made, the Water Department shall forthwith shut off the water on the premises and before it shall be turned on, the consumer shall pay the fine as provided in this Ordinance.

11-1-23 **City May Shut Off Water for Repairs**

The City reserves the right at any time to shut off the water on the main pipe for the purpose of repairing the same, making connection, or extension to the same, or for the purpose of cleaning the same, and it is expressly understood that no claim shall be made against the City by reason of the breaking of the service pipe or service curb-cock, or from any damage arising from shutting off the supply for repairing, laying or relaying main, hydrants or other connections. It is hereby made the duty of the Water Department to give such reasonable notice as shall be practicable.

11-1-24 **Changing Pipes to Conform with Ordinance**

Pipes and appurtenances already put in which are not put in accordance with the provisions of this chapter must be made to comply with the rules laid down in this chapter, and if not complied with in a reasonable time, the water supply will be cut off.

11-1-25 **Public Hydrants**

All hydrants located in the City of Mobridge for the purpose of extinguishing fires in said City, are hereby declared to be public hydrants, and no person or persons, other than members of the Fire Department of said City, for the use and purposes of said Department, and those especially authorized by the Water Department, shall draw water from the same, or in any manner interfere with or injure any of said hydrants. Any person violating any of the provisions of this section shall be deemed guilty of a Class 2 Misdemeanor and shall, upon conviction thereof, be punished by a fine of not more than \$200.00 or imprisonment in the County Jail not to exceed 30 days, or by both such fine and imprisonment. (2003ORD802)

11-1-26 **Enforcement of Rules**

It shall be the duty of the water department, Chief of Fire Department and all persons in the employ of the City having police powers to enforce the foregoing rules by making prompt complaint before the City Council against all persons violating said rules.

11-1-27 **Water Department – Definition – Duties**

The term “Water Department” when used in this Ordinance, shall be constructed to mean that department of the city government having charge and control of the municipal waterworks, and any and all property pertaining thereto, of the City of Mobridge; and it shall be the duty of said department to see that the same is protected from unnecessary damage and loss, and to keep said waterworks in good running order and repair and said department shall make a monthly report of its activities, etc., to the City Council or more often if requested, of all its acts and doings in and about the same, and a record shall be kept of all matters which will show at all times the true state and condition of said office.

11-1-28 Removing or Disturbing Covers of Meters-Penalty

Plumbers and other persons are prohibited from removing, disturbing, uncovering or in any way exposing meters for the purpose of making repairs, thawing pipes, or any other purpose, whether owned by the City of Mobridge or by the owners or consumers, and any person or persons violating any of the provisions of this section shall upon conviction thereof be fined in a sum not exceeding \$100.00, and liable for any loss or damage occurring by reason of such violation.

11-1-29 Regulations for Openings

In case any person, firm or corporation, owning property fronting upon any of the streets, alleys or avenues mentioned in this Ordinance, shall show to the Water superintendent that they have failed to install water, sewer and gas connections prior to the laying of the pavement, in said streets, alleys and avenues through any sufficient cause, or that the sewer, water and gas mains already installed on said streets, alleys or avenues have become defective and in need of repair, or in case any public service corporation shall desire to open said pavement for the laying of mains or conduits, they shall make application for permit for such excavation as provided in this Ordinance; provided, that if such excavation contemplates installation of water or sewer services, the water department shall be notified of such application by applicant prior to the granting of such permit.

11-1-31 Restrictions- Sprinkling- Air Conditioning

All water used for air-cooling systems, lawn or garden sprinkling is subordinate to domestic use or fire protections and may be restricted by the City Council at any time, shall scarcity of water or an emergency of any kind so require. Such restrictions shall be imposed by resolution of the City Council, and notice thereof given the public by publication of such restrictions and the extent thereof, in the official newspaper, and if possible, by radio announcement at least twenty-four hours before the effective date of such restrictions, 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.

11-1-31 Installation of Underground Sprinkling Systems

The following rules and regulations are established for the installation of underground sprinkling systems:

1. A building permit shall be obtained by any person from the Building and Zoning Officer prior to installation of a sprinkling system.
2. All installations shall comply with the requirement of the National Standard Plumbing code, 1990 Edition and amendments thereto in the future.
3. All connections to the City water system or private wells shall be inspected by a licensed plumber prior to use.
4. All sprinkler systems installed shall have back flow preventers and safety valves properly installed as to not allow any water to drain back into a well or city water system. If such appurtenances are found to be missing from a system, the system will be shut down until such time as the system needs compliance.
5. Enforcement of these provisions shall be in accordance with this Ordinance.

CHAPTER 11-2-WATER RATES

11-2-1 Water Rates for Business and Commercial Uses Within the City Limits

All owners and occupants of premises used for business or commercial purposes located in the City limits and connected with the municipal system, including individuals, partnerships, corporations, associations, schools and any and all other benevolent charitable and nonprofit corporations, associations or organizations shall pay for the water consumed upon its premises, and for availability of water service, an amount set by resolution of the City Council.

11-2-2 Water Rates for Metered Residential Uses-Including Trailer Courts Within the City Limits

All owners and occupants of residential premises and churches located within the city limits which are connected to the municipal water system and have a water meter, shall pay for water consumed thereon and for the availability of water service, an amount set by resolution of the City Council.

11-2-3 Water Rates for Un-metered Residences and Lots Within the City Limits

(A) All owners and occupants of residential premises or lots located within the City limits which do not have a water meter and which said residential premises are connected with the municipal water system shall pay for the water consumed thereon, and for the availability of water service an amount set by resolution of the City Council.

(B) All owners of residential and commercial premises or lots located within the City limits upon which there is located a Structure as defined in the Mobridge City Zoning Ordinances and which have water or sewer lines onto the property which are turned off and are not providing water services to the property during periods of 45 continuous days or more, shall be assessed a monthly charge to be set by resolution for the availability of the water and sewer services, which charges shall also include a surcharge and a Water and Sewer extension charge. Said charges shall continue for each month thereafter in which the water service to said premises is disconnected at the street connection. The service availability rates as stated herein shall become effective immediately for those properties which meet the above conditions and shall become effective for other properties (excluding new residential construction) 45 days after the City has received notification by the property owner to disconnect the water service. The service availability rate as stated herein shall become effective for properties upon which new residential construction is commenced one (1) year after the building permit for said construction is issued. All charges as set forth herein shall be billed at the time of the next water billing cycle after said charges become effective. The service availability rates as stated in this section shall not apply to vacant lots upon which no Structure is located. Failure to pay the charges as stated herein shall cause a lien upon the premises so effected and the City shall not reconnect water services to the premises until all such charges

are paid in full unless the City Council shall waive some or all of said delinquent charges.

11-2-4 Reserved.

11-2-5 Water Rates for All Business-Commercial- Residential and Trailer Court Purposes Outside the City Limits

Water rates for all business, commercial, residential and trailer court purposes outside the city limits; connected with the municipal water system for the consumption of water and for the availability of water service for said purpose is fixed at the same Rate as within the City limits, except that the minimum monthly or quarterly Rate for such as therein provided shall be an amount set by resolution of the City Council. All excess water used over the minimum shall be at the same Rate as provided within the City limits.

11-2-6 Fixing Special Rates

Wherever, by reason of special circumstances, the City Council finds the foregoing rates for any user or purpose, and whether within or without the City limits, are unjust or inequitable as applied to certain premises, said rates, if in the opinion of the City Council, be either too high or too low the City Council, by resolution, may fix and establish a fair and equitable Rate for such premises during the period of such special circumstances, or may authorize the Mayor to enter into a contract for the sale of water at a fixed Rate as provided in said contract for such use.

11-2-7 Meter Reading and Billing

All meters for residential, commercial uses and trailer courts within and without the City limits shall be billed on a monthly basis.

11-2-8 Special Fund

In addition to the quarterly water statements for water used during said period at the rates herein fixed there shall be billed and collected from each water user the sum of \$0.50 per month, which sum is set aside in a special fund for sanitary purposes, repair, maintenance and extension of water and sewer mains. If such water user is connected to the City of Mobridge sanitary sewer, whether it be billed and collected with each quarterly billing, the sum of \$20.00 per month, except in the case of multiple users additional sewer rental shall be billed and collected as provided by Ordinance. All sums collected as sewer rental shall be set aside in a special fund for disbursement as provided in Ordinance No. 564 and as provided by Ordinance No. 577 and 706 as to:

11-2-9 Annexation - Termination

That any water services serving property outside the corporate limits of the City of Mobridge on or after October 6, 1975 shall be continued in accordance with existing ordinances and/or as per contract between such water user and the city of Mobridge. In the event the property receiving water services shall refuse or neglect to petition for annexation to the City of Mobridge, after notice in writing by mailing is given, said water services shall be terminated 90 days after mailing of said notice unless said property is annexed within that period of time.

11-2-10 Special Rates for Specific Water Users

All Owners or occupants of premises outside the city limits located on the trunk water main installed in 1965 from Mobridge Rodeo, Inc., Rodeo Grounds, to the Mobridge Municipal airport and Armory and through, over and across which premises said trunk water main is laid, and through, over and across which premises, or a part thereof, and easement has been given the City of Mobridge for the installation, maintenance, use and upkeep of said trunk water main; and, who shall have paid the City of Mobridge, the front foot cost of said truck water main shall pay for the water consumed upon said premises, and for the availability or water services the same minimum and over minimum Rate per month as shall be charged owners or occupants of premises located within the City limits of the city of Mobridge, SD, connected with the water system.

11-2-11 Special Water Main Tapping Fees for Lands Abutting on Armory Water Main Extension Project No. 64-8; and Providing for Collection and Disposition of Fees Collected

Whereas, the City of Mobridge has paid all of the cost for the construction of a trunk water main as described and located in Armory Water Main Extension, Project No. 64-8, generally described as located in the first 15 feet of the land adjacent to U.S. Highway No. 12 commencing at a point within said 15 feet, 596 feet West of the East boundary line of Lot B in the SW1/4SW1/4 of Section 20, Township 124 North, Range 79, Walworth County, South Dakota, owned on the date of the adoption hereof by Mobridge Rodeo, Inc.; thence east to the section line between section 20 and 21; thence North 1950 feet on said section line right-of-way to a point

1950 feet north of the said trunk water main as laid in the front 15 feet of Lot 1, Block 1 of James L. Jackson plat of Block 1, 2 and 3 in the SE1/4 Section 21, Township 124, Range 79, and which point is west of the Mobridge Municipal Airport where said trunk water main under said Armory Water Main Extension Project No. 64-8 leaves the Section line right-of-way and extends East into the Mobridge Municipal Airport and Armory grounds; and

Whereas, the contract cost of installing said trunk water main was \$2.10 per lineal foot,

Whereas, all land abutting thereon is benefited thereby; and

Whereas, it is the general policy of the City of Mobridge to charge the cost of Trunk Water Mains to abutting properties benefited thereby and making use thereof in a sum equal to the cost of the installation thereof;

Now thereof, be it ordained that in addition to all other tapping fees provided by ordinance, there shall be charged to abutting property from said Trunk Water Main the sum of \$2.10 per front foot, according to the number of front feet in each plated tract, lot or area abutting upon said water main as follows:

- (1) the east 596 feet of Tract B in SW1/4SW1/4 Section 20, Twp. 124, Rge. 79.
- (2) 155.5 feet, Lot 1 in SW1/4SE1/4 Section 20, Twp. 124, Rge. 79.

- (3) 145 feet, Lot 9 in W1/2E1/2SE1/4 Section 20, Twp. 124, Rge. 79.
- (4) 46.2 feet in each of lots 3,4,5,6,7 and 8, in W1/2E1/2SE1/4 Section 20, Twp. 124, Rge. 79.
- (5) 52.75 feet, Lot2 in W1/2E1/2SE1/4 Section 20, Twp. 124, Rge. 79.
- (6) 66 feet, lot 1 in W1/2E1/2SE1/4 Section 20, Twp. 124, Rge. 79.
- (7) 0.5 feet each, Lot 1,2,3 and 4, in Block 1 James L. Jackson plat SE1/4SE1/4 Section 20, Twp. 124, Rge. 79.

Property on both sides of the Trunk Water Main Located in the section line right of way between Sections 20 and 21 receive equal benefits by the construction and installation thereof, the cost of installation \$2.10 per foot shall be divided equally by property on each side thereof, or at the Rate of \$1.05 per front foot, as to the following lots, tracts and lands as now plated.

- (1) 150 feet, Lot 1, Block 2, James L. Jackson Plat in SE1/4Se1/4 Section 20, Twp. 124, Rge. 79.
- (2) 56.1 feet, Lot 1, Block 3, James L. Jackson Plat in Se1/4, Section 20, Twp. 124, Rge 79.
- (3) 50 feet each, Lots 2 to 18, both inclusive, Block 3, James L. Jackson plat SE1/4, Section 20, Twp. 124, Rge. 79.
- (4) 630 feet in the SE1/4 Section 20, Twp. 124, Rge. 79 North of and abutting Block 3, James L. Jackson Plat of Blocks 1,2 and 3 in SE1/4, Section 20, Twp. 124, Rge. 79.
- (5) 1950 feet front on section line between Sections 20 and 21 in Twp. 124, Rge 79 commencing at the SW corner of the SW1/4 of said Section 21, thence extending North along said section line right of way a distance of 1950 feet.

It is further provided that if any of said lots, tracts or parcels of land shall be officially subdivided, platted or replatted, and such subdivision, plat or replat, or part of parcel thereof abutting said trunk water main, and desire to tap into same, the special tapping fee herein provided shall be at the same Rate as the lot, tract or parcel of land from which said subdivision, plat or replat was made and according to the number of front feet abutting upon said trunk water main of the lot or tract requesting tapping privileges and benefits.

The special tapping fee herein provided shall be paid to the City Finance Officer by the owner or owners of such property abutting upon said trunk water main before said trunk water main shall be tapped to serve said lot, tract or area shall receive benefits and the use thereof. All special tapping fees paid hereunder shall be deposited in the general fund of the City.

11-2-12 Special Areas

That in addition to all water rates as provided by Ordinance all persons, firms, or corporations tapped into and receiving water from the trunk water main east of the booster pressure water pump located at the quarter line – Section 21 on US Highway and extending to the Indian Creek Campground shall pay to the City of Moberge the cost for all electrical energy to operate said booster pump. The cost to be prorated to each user according to the gallon usage of each user as the same relates to the total gallons used by all users tapped into said trunk water main. The cost thereof shall be

billed to each water user with the regular water billing as provided by Ordinance and shall be collected by the City Finance Officer in the same manner as all other water bills.

11-2-13 Delinquent Water Rents

All water accounts inside or outside the City limits of Mobridge, shall be payable at the office of the City Finance Officer, and if not paid within fifteen (15) days after the same becomes due, shall become delinquent and a penalty of 5% shall be added to said bill. If the water bill and penalty are not paid within five (5) days after becoming delinquent, the water shall not be turned on again until all back rents and penalty, together with a charge of \$15.00 for turning off and on, is paid. No notice shall be required when water rents will become due or delinquent. The City Council shall have the right at any time to adopt rules and regulations governing the use of water furnished by the City.

11-2-14 Leaks and Waste

No allowance will be made on water bills for the excessive use occasioned by leaks or waste within the premises of the consumer.

11-2-15 Owner – Lessee Liable

The owner of private property, which property has upon it pipes connected with the City waterworks to convey water upon such property shall, as well as the lessee or occupant of the premises, be liable to the City of Mobridge for the rents or rates of all water from said waterworks used upon said premises, which may be recovered in an action against such owner, lessee or occupant or against any or all of them.

11-2-16 Section 1 – Purpose

The purpose of this Ordinance shall be to generate sufficient revenue to pay all costs for the operation and maintenance of the water treatment plant waste disposal system. The costs shall be distributed to all users to the water treatment plant waste disposal system in proportion to each user's water usage to insure a proportional distribution of operation and maintenance costs to each user.

11-2-16 A Section 2 – Determining the Total Annual Cost of Operation and Maintenance

The City of Mobridge shall determine the total annual costs of operation and maintenance of the water treatment plant waste disposal system, which are necessary to maintain the capacity and performance, during the service life of the treatment works, for which such works were designed and constructed. The total annual cost of operation and maintenance shall include but need not be limited to labor, repairs, equipment replacement, maintenance, necessary modifications, power and a reasonable contingency fund.

11-2-16 B Section 3 – Determining Each User’s Service Charge for the Water Treatment Plant Waste Disposal System

Each user’s water treatment plant waste disposal system cost contributions shall be determined by the total water usage of the individual user which shall determine the user’s annual service charge each user’s water treatment plant waste disposal system cost contribution will be assessed in accordance with the following Rate schedule:

A. Estimated Total Annual Operation and Maintenance Costs
Bi-Annually

Administration (815)

Billing – 1/10 Salary of Water
Billing Clerk \$1400.00

Water-Waste Water Supt. – 1/10 of
Salary of Supt. 30000.00

Power & Pumping (812)

Electrical Power 375.00

Water Plant (811)

Salaries – ¼ of total salaries of water treatment plant operators estimated to be spent on waste disposal system of water treatment plant. This includes time to empty lime sludge from one decant pond per year. No equipment cost because City owns necessary equipment.

Repairs – Supplies 200.00

Contingencies 400.00

TOTAL \$20,244.00

B. Current Annual Town Water Usage

Approximate 1979 water gallonage billed – 204,700,000 gallons – 204,700 M. Gal.

C. Rate Schedule

Cost/M Gal. = $\frac{\$20,244.00}{204,700 \text{ M. Gal.}}$ = \$0.099 + \$0.10/M. Gal.

Note: A minimum charge for the minimum gallons used may be charge such as:

- a. 2000 gal. Or less/month = $\$0.10 \times 2 = \0.20
- b. Un-metered residence $\$67.50/\text{quarter} = 6,000 \text{ gsl./2 quarter} = \$0.10 \times 6 = \$0.60$
- c. etc.

11-2-16C Section 4 - Payment of User's Water Treatment plant Service Charge and Penalties

The City shall submit a monthly, quarterly, or annual statement to the user for the user's current water treatment plant waste disposal system service charge and it will be included with the regular water and/or waste water utility billing. The City shall add a penalty of 5 percent per user service charge and penalty within two months of the due date, the City may stop the water service to the property.

11-2-16D Section 5 – Review of Each User’s Water Treatment Plant Service Charge

The City shall review the total annual cost of operation and maintenance as well as each user’s Water Treatment Plant Contribution Percentage not less often than every two years and will revise the system as necessary to assure equity of the service charge system established herein and to assure that sufficient funds are obtained to adequately operate and maintain the treatment works.

11-2-16E Section 6 - Notifications

Each user will be notified, annually, with publication in the local newspaper, of the Rate and that portion of the user charges, which are attributable to the water treatment plant services.

11-2-17 Section 1

The City of Mobridge shall fence the waste disposal lagoons at the Waste Water Treatment Plant and lagoons located on the real estate described as Tracts A and B in the Northeast Quarter of the Northeast Quarter (NE1/4NE1/4) of Section Thirteen (13) in Township One Hundred Twenty Four (124) North, Range Eighty (80), West of the 5th P.M., Walworth County, South Dakota located outside the City limits of Mobridge and shall affix no trespassing signs on all fences.

11-2-17A Section 2

It shall be unlawful for any unauthorized person or persons to enter upon or cause any damage to Waste Water Treatment Plant, waste disposal lagoons, structures, buildings or fences belonging to the City of Mobridge located on the above described land.

11-2-17B Section 3

Any person violating the provisions of this Ordinance shall be deemed guilty of a Class 2 Misdemeanor and shall, upon conviction thereof, be punished by a fine of not more than \$200.00 or imprisonment in the County Jail not to exceed 30 days, or by both such fine and imprisonment.

CHAPTER 11-3 SEWER AND WATER CONNECTIONS – SPECIAL RATES

11-3-1 Special Tapping Fees in Lieu of Special Assessments

In addition to the regular tapping fees for water and sewer provided in Chapters 11-1 and/or 11-2, the following tapping fees for connections of property to sewer and water mains as established by special Ordinance Nos. are hereby continued and the charges set forth in said Ordinances shall remain in full force and effect.

<u>Lot No.</u>	<u>Addition</u>	<u>Amount</u>	<u>Water Main</u>
15A 3	Eklos 3 rd	30.60	30.60
25B	Eklos 3 rd	106.95	106.95

(1) Water Mains, Trunk, Tapping

In addition to all other tapping provided by Ordinance there shall be assessed and collected against all lots or parts of lots within the City limits of the City of Mobridge making application for tapping on the trunk water mains extending from the City Water Treatment plant to the City elevated water storage tanks a front footage fee equal to the cost per front foot of laying six inch water main in the City of Mobridge on the date of such application as shall be determined by the City Council by the cost of all labor and material per foot for laying such six inch water main by the City at the last date next preceding such application, when the City shall have laid six inch water main.

A regular tapping fee as provided by Ordinance together with a front footage fee equal to the cost per foot of all labor and materials for laying seventy five (75) feet of six inch water main, on the date of the application for such tapping, as shall be determined by the City Council by the cost per foot for laying such six inch water main the City at the last date next preceding such application when the City shall have laid six inch water main, shall be charged each dwelling house or individual not in the City limits of the City of Mobridge for The privilege of tapping any of the trunk water mains extending from the City Water Treatment plant to the City elevated storage tanks.

(2) Mobridge Community Hospital

Mobridge Regional Hospital, fka Mobridge Community Hospital, having paid for the installation of sewer mains in Mobridge sewer district No. 5 of the Tenth Avenue West from Tenth Street to Fourteenth Street, that in addition to all other tapping fees as provided by Ordinance, a special tapping fee of \$1.369 per foot be paid by all abutting property owners, for each contiguous front foot of said owners property abutting upon said street or public highway for tapping into said sewer main, and that in addition to all other tapping fees as provided by Ordinance, a special tapping fee of \$2.219 per foot be paid by all abutting property owners, for each contiguous foot of said owners property abutting upon said public highway for tapping into said water main.

The above special tapping fee shall be paid to the City Finance Officer by the owner or owners of any such property abutting upon said avenue and public road before the sewer and/or water main shall be tapped for the use and benefit of such abutting property or property owner; and, the City Finance Officer shall forthwith pay and deliver all monies received under this Ordinance to the Mobridge Regional Hospital.

(3) Eklos Addition, Rinehart Addition, Larson's Rearrangement, and Goodman Quality Hill Addition

The City of Mobridge having installed trunk sewer mains in the public streets upon which the hereinafter described City lots abut, and having paid for same from City general funds, and not having collected special assessments from said abutting property pursuant to the general policy of said City for the construction of said trunk sewer mains; and it having been determined that the actual cost thereof is \$1.00 per front per foot, there is hereby levied against each of the hereinafter described lots, or parts of lot, a special sewer tapping fee of \$1 per front foot, to-wit:

Eklo's First Addition:

Lots 3B, 3C, 4A, 4b, 4C and 5

Eklo's Third Addition:

Lots 3B, 4B, W 1/2 5, along the side W 1/2 5, along the side E1/2 5, E 140' lot 32 and lot 33A, 15B, 20, 21A, 22, 29B long side, 29C long side and 29D

Rinehart Addition: Lots 16, and 17

Larson's Rearrangement: Lots 1, 2, 3, 8, 9, 10 and 11

Goodman Quality Hill Addition: Lots 12 and 13, Block 2

The above special water and/or taping fees shall be paid in addition to all other tapping fees provided by City Ordinance and shall be paid to the City Finance Officer by the owner or owners of any such abutting lots before the sewer and/or water main shall be tapped for the use and benefit of such abutting property or property owner; and, the City Finance Officer shall pay said money as received by him under this Ordinance to the City Water and Sewer Extension fund.

(4) Main Street from Fourteenth to Fifteenth

Leo Bell of Mobridge, South Dakota, having paid for the installation of sewer mains, consisting of a trunk line sewer, on Main Street from Fourteenth Street north to Fifteenth Street the cost therefore being \$2.00 per foot; and, said trunk sewer mains having been installed in the City trunk sewer mains; that in addition to all other tapping fees as provided by Ordinance, a special tapping fee of \$1.00 per foot be aid by all abutting property owners, for each contiguous front foot of said owner's property abutting upon said public street for tapping into the said sewer main.

The above special tapping fee shall be paid to the City Finance Officer by the owner or owners of any such property abutting upon said street before the sewer main shall be tapped for the use and benefit of such abutting property or property owner; and, the City Finance Officer shall forthwith pay and deliver all monies received under this Ordinance to the said Leo Bell of Mobridge, South Dakota.

(5) Shor Acres Addition & Bell Aire Addition

That in addition to all other tapping fees provided by Ordinance there shall be charged to and collected form the hereinafter described lots in Shot Acres Addition and in Bell Aire Addition to the City of Mobridge the following special trunk water main tapping fee and the following trunk sewer line tapping fee for and at the time of tapping

into and using said trunk water main and/or said trunk water sewer line. The amount of said special tapping fee being determined by the total cost of all labor and material for the installation of said trunk water main and the cost of all labor and material for the installation of said trunk sewer line as hereinbefore stated divided by the abutting property on both sides and the number of front footage of each lot or tract abutting thereon, as follows:

SHOR ACRES		(1/2 of \$3.65 per foot or 1.825 per foot)		(1/2 of \$3.35 per foot or 1.675 per foot)
<u>LOTS</u>	<u>FOOTAGE</u>	<u>WATER</u>	<u>FOOTAGE</u>	<u>8" SEWER</u>
105	117.18	213.86	117.18	196.28
104	150	273.75	150	251.25
103	124.62	227.43	417.48	208.75
102	149.90	273.57	149.90	251.09

BELL AIRE ADDITION - BLOCK 2

12	70	127.75	70	117.25
13	70	127.75	70	117.25
14	70	127.75	70	117.25
15	70	127.75	70	117.25
16	82.5	150.57	82.5	138.19

In any of said lots, tracts of parcels of land shall be subdivided, platted or replatted and the owner thereof shall make application to tap into said trunk water main or trunk sewer line the special tapping fee Rate herein provided shall be chargeable against said tract according to the number of front feet in said tract abutting on the trunk water main and/or trunk sewer line.

The special tapping fee herein provided shall be paid to the City Finance Officer by the owner or owners of said property abutting upon said trunk water main and/or trunk sewer line before said trunk water main and/or before said lot, tract or area shall receive the benefits and use thereof.

All special tapping fees paid under this Ordinance shall be deposited in the General Fund of the City of Mobridge.

(6) Thompson's Out lots 1, 2, 23 and 24

Henry Krebs of Hosmer, South Dakota has paid for the installation of trunk line water mains and sewer mains in 13th Street from the west boundary line of Thompson's Out lots 1 (northside) and 24 (southside) to the East boundary line of Thompson's Out lots 2 and 23; and,

Said trunk sewer and water mains upon attachment to the City of Mobridge sewer and water system and become a part thereof under the management and supervision of the City of Mobridge, South Dakota, and the abutting property owners to said trunk line water and sewer have not paid their proportionate share for the installation thereof.

That in addition to all other tapping fees as provided by Ordinance there is hereby levied and established a special tapping fee against that portion of lots 1, 2, 23, and 24 in Thompson's Out lots Addition of \$2.10 per front foot for tapping trunk water main; and \$1.85 per front foot for tapping sewer trunk main lying in that part of 13th Street between the West boundary line of Lots 1 and 24, Thompson's Out lots Addition and the East boundary and the line of Lots 2 and 23, Thompson's Out lots Addition.

The tapping fee herein provided shall be paid to the City Finance Officer of the City of Mobridge, South Dakota prior to the approval of the application of the owners of any of the abutting property to tap said trunk water main and/or sewer main for private water and/or sewer connection for the use and benefit of the abutting lots or parts of lots. That upon receipt thereof the City Finance Officer shall pay such special tapping fee to Henry Krebs of Hosmer, South Dakota, his heirs or assigns.

(7) Thompson's Out lot Addition (westside) - Lot 24

Lawrence G. Schaeftbauer and Bonnie Schaeftbauer, Mobridge, South Dakota, have paid in full all cost of labor and materials for the installation of a trunk water main in Third Avenue West from the center of the Thirteenth Street Intersection extending north a distance of 180 feet; and, the actual cost of labor and material for the installation thereof was \$5.20 per lineal foot and no special assessment has been collected from abutting property pursuant to the general policy of the City of Mobridge for the construction of water mains. Therefore, there is hereby levied against all property abutting on both sides of said water main a special water-tapping fee of \$2.60 per front foot.

The property abutting said trunk water main and the front footage thereof upon said which special tapping fee is levied is as follows:

THOMPSON'S OUT LOTS ADDITION

Lot 24 - South 150 Feet

The above special water tapping fee shall be paid in addition to all other tapping fees provided by City Ordinance and shall be paid to the City Finance Officer by the owner or owners of any such abutting lots before the trunk water main shall be tapped for the use and benefit of such abutting property or property owner; and the City Finance Officer shall forthwith pay and deliver all monies received as a special tapping fee under this Ordinance to the said Lawrence G. Schaeftbauer and Bonnie Shaeftbauer as reimbursement to them for the actual cost of all labor and material for the installation of said trunk water main.

(8) SHOR ACRES

That in addition to all other tapping fees provided by Ordinance, there shall be charged to abutting property a special tapping fee for tapping into and using water from said trunk water main the sum of \$2.20 per front foot; and for tapping or connecting to and using the trunk sewer main, the sum of \$3.00 per front foot; according to the number of front feet in each plotted tract, lot of area abutting upon said water main, and sewer main, being the following described real property: Lots One, Two, Three, Twenty-one, Twenty-two, Twenty-three, Forty, Forty-one, Forty-two, Forty-three, Forty-four, Forty-five,

Forty-six, Forty-seven, Forty-eight, Forty-nine, One Hundred Fifteen, One Hundred Thirty-one, One Hundred Thirty-two, One Hundred Thirty-three, One Hundred Thirty-four, One Hundred Thirty-five, One Hundred Thirty-six, One Hundred Thirty-seven, One Hundred Thirty-eight, A, B, C, and D, Shor Acres Addition to the City of Mobridge South Dakota.

Property abutting on both sides of the trunk water main and trunk sewer main in said project No. 67-1 receive equal benefits by the construction and installation thereof, the cost of installation of water main at \$2.20 per lineal foot and the cost of said sewer main at \$3.00 per lineal foot shall be divided equally and chargeable to the property on each side thereof at the Rate of \$1.10 per lineal foot for water main and \$1.50 per lineal foot for sewer main.

It is further provided that if any of said lots, tracts or parcels of land shall be officially subdivided, plotted, or replotted, and such subdivision, plat or replat shall be filed of record, any such subdivision, plat or replat or part or parcel thereof abutting said water main and said sewer main which shall request to tap into same, the special tapping fee herein provided shall be at the same Rate as the lot, tract or parcel of land from which said subdivision, plat or replat was made and according to the number of front feet abutting upon said trunk water main and said trunk sewer main of the latter parcel requesting tapping privileges and benefits.

The special tapping fee herein provided shall be paid to the City Finance Officer by the owner or owners of such property abutting upon said trunk water main and said trunk sewer main before any trunk water main shall be tapped or said trunk sewer main shall be tapped to service said lot, tract, or parcel of land, and/or before said tract of parcel of land shall receive benefits from the use thereof.

All special tapping fees paid hereunder shall be deposited in the General Fund of the City of Mobridge, South Dakota.

(9) Indian Creek Project

For subdivisions, then and in that event, the special tapping fees shall be for seventy five (75) foot frontage and shall service no more than one water user thereon.

If it is further provided that if any of said rural lands, tracts or parcels of land shall be officially subdivided, plotted or replotted and such subdivision, plat or replat or part or parcel thereof abutting said trunk water main, and making application for tapping said trunk water main the special tapping fee herein provided shall be at the Rate of \$2.40 per front foot, fronting and abutting upon the right of way wherein said trunk water main has been laid; and no more than one water user shall at any time take water from such tap.

The special tapping fee herein provided shall be paid to the City Finance Officer by the owner or owners of such property abutting upon said trunk water main before said trunk water main shall be tapped to service said land, lot, tract or area, and/or before said land, lot, tract or area shall receive benefits from the use thereof.

All special tapping fees paid hereunder shall be deposited in the general fund of the City of Mobridge.

(10) Shor Acres Addition

The City of Mobridge, South Dakota having installed trunk water mains in the public streets upon which the hereinafter described City lots abut, and having paid for same from City general funds, and not having collected special assessments from said abutting property pursuant to the general policy of said City for the construction of trunk water mains; and it having been determined that the actual cost thereof is \$2.40, per front foot, there is hereby levied and assessed against each of the hereinafter described lots, or parts of lots, a special water tapping fee of \$2.40, per front foot, to-wit:

Shor Acres Addition to the City of Mobridge, South Dakota

<u>Lot Number</u>	<u>Abutting Front Feet</u>	<u>Amount</u>
109	150	\$360.00
110	150	\$360.00
111	150	\$360.00
112	150	\$360.00
113	140	\$336.00
114	138	\$331.00
115	162	\$390.00
116	145	\$348.00
117	145	\$348.00
118	145	\$348.00
119	145	\$348.00
120	145	\$348.00
131	110	\$264.00
"D"	167.5	\$882.00

That said special water tapping fee shall be paid in addition to all other tapping fees provided by the City Ordinance, and shall be paid to the City Finance Officer by the owner or owners of any such abutting lots before the water main shall be tapped for use and benefit of such abutting property owner; and, the City Finance Officer shall pay said money as received by him under this or Finance, to the City Water Extension Fund.

(11) Northwest Townsite Co.'s Second Addition Blocks 20 and 21

That there is hereby levied and assessed against each of the hereinafter described lots or parts of lots a special water tapping fee of \$1.10 per front foot. Add ordinance 456

That said special water tapping fee shall be paid in addition to all other tapping fees provided by City Ordinance, and shall be paid to the City Finance Officer by the owner or owners of any such abutting lots before the water main shall be tapped for use and benefit of such abutting property owner; and, the City Finance Officer shall pay said money as received by him under this Ordinance to Eugene Kraft, for reimbursement for the cost of said trunk water main.

(12) Northwest Townsite Co's Third Addition Blocks 37 and 38

The City of Mobridge having installed trunked sewer mains in the public streets upon which the hereinafter described city lots about, and having paid for same from City General Funds, and not having collected special assessments from said abutting property pursuant to the general policy of said City for the construction of said trunk sewer mains; and, it having been determined that the actual cost thereof is \$2.75, per front foot, there is hereby levied against each of the following described lots, or parts of lots, a special sewer tapping fee of \$1.38 per front foot;
Northwest Townsite Company's Third Addition - Block 37:

LOT NUMBER	FRONT FEET	UNIT PRICE	TOTAL
1	50	1.38	\$69.00
2	50	1.38	\$69.00
3	50	1.38	\$69.00

Northwest Townsite Company's Third Addition – Block 38:

LOT NUMBER	FRONT FEET	UNIT PRICE	TOTAL
10	50	1.38	\$69.00
11	50	1.38	\$69.00
12	50	1.38	\$69.00

The City of Mobridge having installed trunk water mains in the public streets upon which the hereinafter described city lots abut, and having paid for same, from the City General Fund, and not having collected special assessments from said abutting property pursuant to the general policy of said City for the construction of such trunk water main, and it having been determined that the actual cost thereof is \$2.60, per foot, there is hereby levied against each of the hereinafter described lots, or parts of lots, a special water tapping fee of \$1.30, per front foot;

Northwest Townsite Company's Third Addition – Block 37:

LOT NUMBER	FRONT FEET	UNIT PRICE	TOTAL
1	50	1.30	\$65.00
2	50	1.30	\$65.00
3	50	1.30	\$65.00
4	50	1.30	\$65.00
5	50	1.30	\$65.00

Northwest Township Company's Third Addition – Block 38:

LOT	NUMBER	FRONT FEET	UIT PRICE	TOTAL
7	50	1.30	\$65.00	
8	50	1.30	\$65.00	
9	50	1.30	\$65.00	
10	50	1.30	\$65.00	
11	50	1.30	\$65.00	
12	50	1.30	\$65.00	

The above special water and/or sewer tapping fees shall be paid in addition to all other tapping fees provided by City Ordinance and shall be paid to the City Finance Officer by the owner or owners of any such abutting lots before the sewer and/or water main shall be tapped to said trunk line sewer and/or water main for the use and benefit of such abutting property or property owner; and, the City Finance Officer shall pay all money received by him under this special tapping fee Ordinance, to the City of Mobridge General Fund.

(13) Third Avenue West

Whereas, by request of Q.P. Coleman, the City of Mobridge has laid an eight inch trunk water main in the public right of way extended Third Avenue West North of the City limits from 20th Street to 18th Street known as Q.P. Coleman Extension No. 1 and from 18th Street to 17th Street known as Q.P. Coleman Extension No. 2; and,

Whereas, it was agreed between the City of Mobridge and the said Q.P. Coleman that Q.P. Coleman would pay the City of Mobridge that part of the cost of said trunk water main as would be the cost of a six inch water main laid in said right of way, excluding projected intersections and cost of fire hydrants; and,

Whereas, the City of Mobridge further agreed to protect the said Q.P. Coleman for his expense in the payment of the laying of said trunk water main by adopting a special tapping fee ordinance as to all abutting property tapping into said water main; and

Whereas, the cost to Q.P. Coleman of a six inch water main on Third Avenue West from projected 20th Street to 18th Street, being Q.P. Coleman Extension No. 1 is \$2.20, per foot; and,

Whereas, the cost to Q.P. Coleman of a six-inch water main on Third Avenue West from projected 18th Street to 17th Street, being Q.P. Coleman Extension No. 2 is \$2.95, per foot;

Now, therefore, be it ordained by the Common Council of the City Of Mobridge, South Dakota;

That in lieu of special assessments being levied in payment of the trunk water main laid in Third Avenue West from projected 20th Street to 17th Street, in addition to the regular tapping fees provided by these Chapters, all property abutting on Third Avenue West from projected 20th Street to 18th Street, being in Q.P. Coleman Trunk Water Extension No 1 shall pay a special tapping fee of \$1.10, per foot of property fronting on said Third Avenue West owned by the person requesting to tap the trunk water main; and , in addition to the regular tapping fees provided by these chapters, all property abutting on Third Avenue West from projected 18th Street to 17th Street, being in Q.P. Coleman Trunk Extension No.2, shall pay a special tapping fee of \$1.48, per foot of property on said Third Avenue as owned by the person requesting to tap said trunk water main.

The above special tapping fee shall be paid to the City Finance Officer by the owner or owners of each or any said tracts of land abutting upon said trunk water main, extensions; and all sums received from said special tapping fee shall be paid by the City Finance Officer to Q.P. Coleman or his assigns. All fees to be paid before tapping.

(14) Eleventh Avenue East Between Second Street and Third Street East

That in lieu of special assessments being levied in payment of the trunk water main laid in 11th Avenue East from Second Street to Third Street in addition to the regular tapping fees provided by Chapter 11-1 and Chapter 11-2 of the 1967 Revised Ordinances of the City of Mobridge, South Dakota as amended, all property abutting on Eleventh Avenue East between Second Street and Third Street being Lots One (1), Two (2), Three (3), Four (4), Five (5), and Six (6) in Block Twelve (12), and Lots One (1), Two (2), Three (3), Four (4), Five (5), and Six (6) in Block Eleven (11) of C.A. Draeger's Addition to the City of Mobridge, South Dakota, shall pay a special tapping fee of \$1.50 per front foot of property fronting on said Eleventh Avenue East as owned by the person requesting to tap said trunk water main.

The above special tapping fee shall be paid to the City Finance Officer by the owner or owners of each or any of said tracts of land abutting upon said trunk water main extension prior to the tapping therein; and all sums received from said special tapping fee shall be paid by the City of Treasure to Erhart Rohrbach, his successors or assigns.

(15) Special Water Main and Special Sewer Main Tapping Fees

Be it ordained by the Common Council of City of Mobridge, South Dakota:

(1) That in addition to all other tapping fees provided by Ordinance, a special trunk sewer main tapping fee of \$1.50, per front foot is hereby levied against the following lots located in Eklo's Second Addition to the City of Mobridge, South Dakota, to-wit:

Lots 10F, 10E, 10D and 9F

In payment of the pro-rata share of the cost to said lots for the installation of six inch trunk sewer main adjacent to said real property.

The special tapping fee herein provided shall be paid to the City Finance Officer by the owner or owners of any such property abutting upon said trunk sewer main before the sewer main shall be tapped for the use and benefit of such abutting property or property owner; and, the City Finance Officer shall forthwith pay and deliver all monies received as such tapping fee to William W. Bosch of Mobridge, South Dakota, who has advanced the full cost of the installation of said trunk sewer main.

(2) That in addition to all other tapping fees provided by the Ordinance, a special trunk water main tapping fee of \$1.75, per front foot, and a special trunk sewer main tapping fee of \$1.75 per front foot is hereby levied against the following lots located in Belle Aire Addition to City of Mobridge, SD, to-wit: Lot 8 in Block 2

In payment of pro-rata share of cost to said lots for the installation of six inch trunk water main and the eight inch trunk sewer main adjacent to and servicing said lots.

The special water main tapping fee and sewer main tapping fee herein provided shall be paid to the City Treasurer by the owner or owners of any such property abutting

upon said trunk water main and said trunk sewer main before the water and/or sewer main shall be tapped for the use and benefit of such abutting property owner; and, the City Finance Officer shall forthwith pay and deliver all monies received under this Ordinance to Willis Sackreiter, who has hereto for paid the full amount of the cost of installation of said trunk water main and trunk sewer main.

(3) That in addition to all other tapping fees provided by Ordinance, a special trunk sewer main tapping fee of \$1.50, per front foot is hereby levied against the following lots located in East Side Addition to the City of Mobridge, SD, to-wit: Lots 10, 11, 12, 13, 14 and 15

In payment of the pro-rata share of the cost to said lots for the installation of the six-inch sewer main abutting said lots.

The special sewer tapping fee herein provided shall be paid to the City Finance Officer by the owner or owners of said property abutting upon said trunk sewer main before the sewer main shall be tapped for the use and benefit of such abutting property or property owner; and, the City Finance Officer shall forthwith pay and deliver all monies received under this special tapping fee to Gary Jensen of Mobridge, South Dakota, who had advanced the full amount of the cost of said trunk sewer main.

(4) That in addition to all other tapping fees provided by Ordinance, a special trunk water main tapping fee of \$1.75, per front foot, and a special trunk sewer main tapping fee of \$1.75, per front foot is hereby levied against the following lots located in Shor Acres Addition to the City of Mobridge, SD, to-wit: Lots 81, 82, 107 and 108

In payment of the pro-rata share of the cost of said lots for the installation of the six-inch trunk water main and the eight-inch trunk sewer main adjacent to said lots.

The special trunk water main tapping fee and the special trunk sewer main tapping fee shall be paid to the City Finance Officer by the owner or owners of such lots before the water main and/or sewer main shall be tapped for the use and benefit of said abutting property or property owner; and, the City Finance Officer shall forthwith pay and deliver all monies received from such tapping fees to Darrel Bender of Mobridge, South Dakota, who has heretofore advanced the full amount of the cost of installation of said trunk water main and trunk sewer main.

(16) Lots Abutting on Both Sides of Third Avenue West from the Man Hole at Thirteenth Street and Extending north 1100 Feet

Be it ordained by the Common Council of the City of Mobridge, South Dakota: Whereas, Lyle B. LaFromboise and Karen J. LaFromboise of Part A, Pierre, South Dakota, have paid in full all cost of labor and materials for the installation of a trunk sewer main in Third Avenue West from the Thirteenth Street intersection man hole extending north a distance of 1100 feet; and,

Whereas the actual cost of all labor and material for the installation thereof was \$5.115, per lineal foot and no special assessment has been collect from abutting property pursuant to the general policy of the City of Mobridge for the construction of trunk sewer mains;

Now, therefore, there is hereby levied against all property abutting on both sides of said trunk sewer main a special sewer-tapping fee of \$2.558, per front foot.

The property abutting said trunk sewer main and the front footage thereof upon which said special tapping fee is levied is as follows:

THOMPSON'S OUT LOTS ADDITION:

Lot 24 -264 feet

Lot 25-264 feet

BELL AIRE SECOND ADDITION, FIRST SUBDIVISION:

Lot 7-50 feet

S. 20 feet of Lot 8-20 feet

N.40 feet of Lot 8-40 feet

S. 45 feet of Lot 9-45 feet

N.15 feet of Lot 9-15 feet

Lot 10-60 feet

Lot 11-60 feet

Lot 12-60 feet

Lot 20-395.88 feet

PRESENT EXISTING PLATTED LOTS ABUTTING THIRD AVENUE WEST NORTH OF THE MOBRIDGE CITY LIMITS:

Lot 1-117 feet

Lot 2-117 feet

Lot 3-117 feet

Lot 4-138.88 feet

Lot 5-165.38 feet

Lot 6-324.33 feet

The above special sewer tapping fee shall be paid in addition to all other tapping fees provided by City Ordinance and shall be paid to the City Finance Officer by the owner or owners of any such abutting lots before the trunk sewer main shall be tapped for the use and benefit of such abutting property of property owner; and the City Finance Officer shall forthwith pay and deliver all monies received as a special tapping fee under this Ordinance to the said Lyle B. LaFromboise or Karen J. LaFromboise as reimbursement to them for the actual cost of all labor and material for the installation of said trunk sewer main.

(17) Skyline and Fairview Addition

(1) That in addition to all other tapping fees provided by Ordinance, a special trunk water main tapping fee of \$2.75 per foot is hereby levied against the following described lots located in the following additions to the City of Mobridge, South Dakota, to-wit:

Skyline Addition:

Lots Five (5), Six (6), vacated Ninth Street of 66 feet, Eleven (11), Twelve (12), Thirteen (13) and Fourteen (14) in Block One (1)

Fairview Addition:

Lots Five (5), Six (6), Seven (7) and Eight (8) in Block One (1)

Lots Nine (9), Ten (10), Eleven (11), Twelve (12) and Thirteen (13) in Block Two (2)

In payment of pro Rata share of the cost of said lots for the installation of the six-inch trunk water main adjacent to and servicing said lots.

The special tapping fee herein provided shall be paid to the City Finance Officer by the owner or owners of any such property abutting upon said trunk water main before the water main shall be tapped for the use and benefit of such abutting property or property owners; and the City Finance Officer shall forthwith pay and deliver all monies received as such tapping fee to Francis A. Johnson of Mobridge, South Dakota, who has advanced the full cost of the installation of said trunk water main.

(2) That in addition to all other tapping fees provided by Ordinance, a special trunk sewer main tapping fee of \$2.50 per front foot is hereby levied against the following lots located in the following additions to the City of Mobridge, South Dakota, to-wit:

Skyline Addition to the City of Mobridge:

Lots Five (5), Six (6), vacated Ninth Street of 66 Feet, Eleven (11), Twelve (12), Thirteen (13), Fourteen (14) and vacated Ninth Street 66 Feet in Block One (1)

Fairview Addition to the City of Mobridge:

Lots Four (4) and Five (5), Block One (1), Lots Twelve (12) and Thirteen (13), Block Two (2)

In payment of the pro rata share of the cost of said lots for the installation of the eight-inch trunk sewer main adjacent to and servicing said lots.

The special sewer tapping fee herein provided shall be paid to the City Finance Officer by the owner or owners of said property abutting upon said trunk sewer main before the sewer main shall be tapped for the use and benefit of said abutting property or property owners; and, the City Finance Officer shall forthwith pay and deliver

all monies received under this Ordinance to Francis A. Johnson, who has paid heretofore the full amount of the cost of installation of said trunk sewer main.

(18) GREENWOOD CEMETERY

By request of Jerome T. Feist and Janice A. Feist, husband and wife that they be allowed to install a six inch water main in accordance with City specifications, along the south side of Greenwood Cemetery extending east from the present City of Mobridge main a distance of 1,000 feet, and, at their expense, excluding costs of fire hydrants; and,

The City of Mobridge has agreed to protect said Jerome T. Feist and Janice A Feist their expanse in the payment of the laying of said water main by adopting a special tapping fee ordinance as to all abutting property tapping into said trunk water main, except the City of Mobridge; and,

The Cost of Jerome T. Feist and Janice A Feist of the 1,000 feet of six inch water main is \$5.00 per foot; and,

The City of Mobridge shall control all tapping of said six inch main and no tapping is to be done of the six inch main line or any line tapped into said sic inch line without the consent of the City of Mobridge; and,

The City of Mobridge shall have no responsibility for maintenance of said line and further makes no guarantee of water pressure in said line; and,

Jerome T Fiest and Janice A. Fiest shall consent to the annexation of their property to the City of Mobridge whenever the City decides to annex said territory.

Now therefore, be it ordained by the Common Council of the City of Mobridge, South Dakota;

That in lieu of special assessments being levied in payment of the trunk water main laid along the south side of the Greenwood Cemetery extending East from the present City water main a distance of 1,000 feet, in addition to the regular tapping fees provided by Chapter 11-1 and 11-2 of the Revised Ordinances of the City of Mobridge, South Dakota, 1967, as amended, all property, except the City of Mobridge property, abutting the water main projected East along the south side of the Greenwood Cemetery, being Feist trunk water main extension #1, shall pay a special tapping fee of \$2,500 per front foot of property fronting on said line owned by the person requesting to tap the trunk water main.

The above special tapping fee shall be paid to the City Finance Officer by the owners of each or any of the said tracts of land abutting upon said trunk main extension; and all sums received from said special tapping fee shall be paid by the City Finance Officer to Jerome T. Feist and Janice A. Feist or their assigns. All fees to be paid before tapping.

That the City of Mobridge shall control all tapping of said six inch main and no tapping is to be done on the six-inch main or any time tapped into said six-inch line without the consent of the City of Mobridge. That the City of Mobridge shall have no responsibility for the maintenance of said six-inch line installed by Jerome T. Feist and Janice A. Feist and further the City makes no guarantee of water pressure in said line.

That Jerome T. Feist and Janice A. Feist consent to the annexation of their property described as Tract One (1) of Neumeyer's Addition to Walworth County, South Dakota, located in the Southwest Quarter of the Southwest Quarter (SW ¼ SW ¼) of Section Seventeen (17) in Township One Hundred Twenty-four (124) North, Range Seventy-nine (79), West of the Fifth Principal Meridian, containing 8.14 acres, more or less at such time as the governing body of the City by resolution shall deem it to the best interest of the municipality that said territory be annexed to said City limits.

11-3-2 Supplemental Appropriation

The City of Mobridge in its 1974 Annual Appropriation Ordinance did not provide funds with which to purchase a capital investment in the Water Department of the City of Mobridge, SD consisting of an eight inch trunk water main from the municipal water treatment plant to the Montana Dakota Utilities Company elevated steel water storage tank, and all easements relating thereto, the MDU settling basin and pumps located in the municipal water treatment plant and the MDU 51 percent ownership of the water well in which municipality owns the other 49 percent interest, for the sum of \$15,000.00, payable in three annual installments of \$5,000.00, each.

Now therefore, this Supplemental Appropriation Ordinance in the sum or \$5,000.00, to be used as part payment in the purchase of the Montana Dakota Utilities Company eight inch trunk water main extending from the municipal water treatment plant to the Montana Dakota Utilities Co. elevated steel water tank together with assignments of easements, if any, in connection therewith, the Montana Dakota Utilities Company settling basin and pumps located in the municipal water treatment plant and the Montana Dakota Utilities Company 51 percent ownership of the water well in which the City of Mobridge now owns a 49 percent interest. Revenue in payment of said Supplemental Appropriation Ordinance is to be appropriated from Revenue Sharing funds heretofore received by the municipality.

CHAPTER 11-4 – SEWERS

11-4-1 Definitions

As used in this Ordinance, unless the context otherwise requires.

- A. **“City”** means the City of Mobridge or its officers or employees authorized to perform the functions to which there is reference.
- B. **“Sewage”** means water-carried wastes from residences, institutions, business buildings and other establishments.
- C. **“Sewer”** means a pipe or conduit for carrying sewage.
- D. **“Public Sewer”** means a sewer common to the public and which is controlled by public authority.
- E. **“Municipal sewage system” or “System”** means the entire sewage system of the City including the collection of sewage and industrial wastes, treatment and disposal thereof.
- F. **“Sanitary Sewer”** means a sewer carrying sewage and to which storm, surface and ground water is not intentionally admitted.
- G. **“Industrial waste”** means the liquid wastes resulting from any commercial manufacturing or industrial operation as distinct from sewage.
- H. **“Building drain”** means that part of the lowest horizontal piping of a drainage system, which receives the discharge from soil, waste and other drainage pipes inside the building and conveys it outside the inner face of the building wall.
- I. **“Building sewer”** means the extension from the building drain to the public sewer or other place of disposal.
- J. **“Person”** means an individual, corporation (public or private), partnership or association.
- K. **“User”** means the owner, lessee or occupant of the premises connected to the municipal sewage collection system.
- L. **“Service”** means connection to the municipal sewage collection system and the right to the use of its facilities whether or not the facilities are in fact used.
- M. **“Notice”** means a notice in writing directed to the owner or other person affected for the time specified by this Ordinance, stating briefly the condition, which is the reason for the notice and the consequences, which would result upon failure to comply with the terms of the notice. A notice shall be deemed given when either it is personally served on the person to whom it is directed or is mailed to him at his last known address. If the owner cannot be reached by mail so addressed, service may be made upon the occupant.

11-4-2 Use of the Municipal Sewer System Required

- A. It shall be unlawful for any person to place or deposit or permit to be deposited in an unsanitary manner upon public or private property within the City, or in any area under its jurisdiction, any sewage or industrial wastes.
- B. It shall be unlawful to discharge to any natural outlet within the City, or any area under the city's jurisdiction, any sewage or industrial waste unless it has been suitably treated as provided hereinafter.
- C. Except as provided in paragraph (e) of this section, it shall be unlawful to construct or maintain any privy, septic tank, cesspool or such facility intended or used for the disposal of sewage.
- D. The owner of every residence, business or industrial building in the City abutting upon any street or alley in which public sewers are maintained, shall at his own expense install a sewer to dispose of all sewage and industrial wastes from the premises and connect it with the public sewer within 30 days after notice to do so, provided the public sewer is within 100 feet of his property line. If such owner fails to provide for such sewer after notice to do so, the City shall provide for the installation of such sewer and charge the cost against the property as a special assessment.
- E. So long as a public sewer is not available under paragraph (d) above, the building sewer shall be connected to a private disposal system complying with other ordinances of the City and with all requirements of the Department of Public Health of the State of South Dakota. At such time as a public sewer becomes available to the property, the building sewer shall be connected to it and use of any septic tank, cesspool or other private disposal facility shall cease.
- F. Any privy, septic tank, cesspool or other such facility intended or used for the disposal of sewage which is constructed or maintained in violation of any of the provisions of the Ordinance is declared to be a public nuisance and the City may abate the same in the manner provided by law.

11-4-3 Building Sewer and Connections and Street Excavations Relating Thereto

- A. No building sewer shall be built, repaired, extended or connected with the public sewer without a permit.
- B. All applications for sewer permits shall be made to the Water Superintendent by the person employed to do the work. The application shall be accompanied by a plan and drawings showing the proposed work.
- C. Before permit is given on the application, the City may inspect the premises and the proposed installation to ascertain if the installation is proper and in compliance with local and state laws ordinances and regulations, and that the statements in the application are true. After the application has been approved by the Common Council and the applicant has paid to the City Finance Officer a permit or regular tap fee, or if special tapping fee Ordinance

shall affect said property permit the amount of said special tapping fee, the City Finance Officer shall issue the permit.

- D. Upon issuance of the permit, the person to whom it is granted may proceed with the work in accordance with the permit granted, at any time within six months after date of the granting thereof. The applicant shall notify the Water Superintendent of the progress of the work at such stages during the construction as the City may direct and in particular shall notify the Water Superintendent when the building sewer is complete and ready for connection with the public sewer, which shall not be later than one year from the date of the issuing of said permit. The City shall be given an opportunity to inspect the work after it is completed.
- E. All connections with the public sewer shall be made with cast iron, vitrified clay tile, P.V.C. or A.B.S. plastic pipe, and shall comply with plumbing standards, if any, provided by the City Ordinance or laws or regulations of the State of South Dakota. All joints and connections shall be gas and watertight. The size, slope and depth of the building sewer shall be subject to the approval of the City, but in no event shall the internal diameter be less than four inches, and a slope of one-quarter inch to the foot shall be used wherever practical. The connections of the building sewer with the public sewer shall be made with an approved tapping saddle.
- F. Each building shall be separately and independently connected with the public sewer.
- G. All excavations for building sewer installations shall be adequately guarded with barricades and lights and other appropriate warning devices so as to protect the public from hazard. Streets, alleys, sidewalks and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.
- H. The applicant shall indemnify and save harmless the City from any claims of injury, loss or damage to third parties arising out of the construction work; this provision is a condition to issuance of the permit, require the applicant to file a corporate surety bond for a period of two years.

11-4-4 Service Charges

A. Monthly sewer rental charges shall be as follows:

(1) Residence, apartments and mobile homes:

\$17.00, per month for each residential and/or apartment and/or mobile home connection; accumulative according to the number of residences, apartment users and mobile home users connected to one sewer outlet.

(2) Commercial connections:

Each separate commercial sewer connection shall pay a minimum service rental of \$17.00, per month, and where more than one commercial

business shall be connected to one sewer outlet each business shall pay a minimum sewer rental of \$17.00, per month. The minimum sewer rental shall be for 10,000 gallons of water per month used by said business purposes, where a business uses more than 10,000 gallons of water per month for business purposes an additional monthly rental shall be paid each month, the amount thereof determined on a graduated scale as follows:

Gallons of Water Used	Amount
0 to 10,000 (minimum)	\$17.00
20,000 to 39,999	\$ 5.00
40,000 to 79,999	\$ 5.00
80,000 to 119,999	\$ 5.00
120,000 to 200,000	\$ 5.00

This rate to commence April 1, 2000

(3) Hotels and/or Motels with Combined Apartments and Sleeping Rooms and/or Business Connections:

- a. All hotels and motels having combined apartment and hotel or motel rooms and/or separate businesses connected to the sewer system with one sewer outlet shall pay sewer rental at the case minimum commercial Rate of \$17.00, per month for the first 2,000 gallons of water used; and \$17.00, per month for each additional apartment or business connected thereto; and shall be given credit of 3,500 gallons of water per month for each apartment user, and 10,000 gallons per month for each commercial user; and the overage, if any, shall be paid at the graduated scale Rate set forth under paragraph (2) above. (2000 ORD 766; 1998 ORD 747)
- b. An account for services will be kept for each user and a separate account for separate premises. Each owner will be liable for service to the users of his premises. Bills for service shall be rendered quarterly for residential and quarterly for commercial users and will be due within 30 days of date of billing. The charge for sewer service may be included on the water bill, but if so, shall be separately stated thereon. The City Finance Officer will keep account and render the bills; he or she will receive payments of bills and give receipts therefore.
- c. All sewer service charges when collected and all monies received from the date of any sewage collection facilities or equipment shall be placed in a separate fund and shall be used first to pay the normal, reasonable and current costs of operation and maintaining the facilities, and the balance shall be used as the Common Council may direct and as provided by law.
- d. All sewer service charges shall be charged against the owner, lessee and occupant of the premises, and if such charges shall not be paid when due, the City shall have the right to disconnect sewer service to the premises and to collect the delinquent charges by civil action in any court.
- e. This amendment to be effective March 1, 1977.
- f.

11-4-5 Use of the Public Sewers

- a. No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted industrial waters to any sanitary sewer.
- b. Storm water and all other unpolluted drainage shall be discharged to such storm sewers, or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged, on approval of the Superintendent, to a storm sewer, combined sewer or natural outlet.
- c. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers.
 - (1) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.
 - (2) Any waste waters or wastes 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 public nuisance or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two mg/1 as CN in wastes as discharged to the public sewer.
 - (3) Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works.
 - (4) Solid or viscous substances in quantities of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, tags, feathers, tar, plastics, wood, underground garbage, whole blood, paunch manure, hair and fleshing, entrails and paper dishes, cups, milk containers, etc. either whole or ground by garbage grinders.
- d. No person shall discharge or cause to be discharged the following described substances, materials, waters or wastes if it appears likely in the opinion of the Superintendent that such waste can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property or constitute a nuisance. In forming his or her opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plan and other pertinent factors.

The substances prohibited are:

- (1) Any liquid or vapor having a temperature higher than one hundred fifty (150) degrees F (65 degrees C).
- (2) Any water or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of one hundred (100) mg/1 or containing substances which may

solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150) degrees F (0 and 65 degrees C).

(3) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the Superintendent).

(4) Any waters or waste containing strong acid iron pickling wastes or concentrated pickling solutions whether neutralized or not.

(5) Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirements to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.

(6) Any waters or wastes containing phenols or other taste or odor producing substances in such concentrations exceeding limits which may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of the State, Federal or other public agencies of jurisdiction for such discharge to the receiving waters.

(7) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or Federal regulations.

(8) Any waters or wastes having a pH in excess of 9.5.

(9) Materials which exert or cause:

(a) Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, lime residues) or of dissolved solids (such as, but not limited to sodium chloride and sodium sulfate.)

(b) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions.)

(c) Unusual BOD, chemical oxygen demand or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

(d) Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.

(10) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

e. If any water or wastes are discharged or proposed to be discharged to the

Public sewers which waters contain the substances or possess the characteristics enumerated in paragraph D of this Section and within the judgment of the Superintendent may have a deleterious effect upon the sewage works, processes, equipment or receiving waters or which otherwise create a hazard to life or constitute a public nuisance the Superintendent may:

- (1) Reject the waters;
- (2) Require the 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 paragraph J of this section.

If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent and subject to the requirements of all applicable codes, ordinances, and laws.

f. Grease, oil and sand interceptors shall be provided when, in the opinion of the Superintendent they are necessary for the proper handling of liquid wastes containing excessive amounts or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Superintendent and shall be located as to be readily and easily accessible for cleaning and inspection.

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

h. When required by the Superintendent the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located and shall be constructed in accordance with plans approved by the (Superintendent). The manhole shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.

i. All measurements, tests and analysis 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 Examination of Water and Wastewater" published by the American Public Health Association and shall be determined at the control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property. The particular analyses involved will determine whether a twenty-four (24) hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be

taken. Normally, but not always, BOD and suspended solids analyses are obtained from 24-hour composites of all outfalls whereas pHs are determined from periodic grab samples.

j. No Statement contained in this section shall be construed as any special agreement or arrangement between the City and any industrial concern whereby and industrial waste of unusual strength or character may be accepted by the City for treatment subject to payment therefore by the industrial concern.

11-4-6 Guidelines to Establish an Equitable Sewer Users Fee

1. Sewer users Rate to be determined by prorating the total costs incurred among the users.

2. Sewer users charges to be based on quantity and quality.

3. Sewer user's classification:

(a) Within the corporation limits:

1. Domestic
2. Institutional
3. Commercial
4. Industrial

(b) Outside corporate limits:

1. Domestic
2. Institutional
3. Industrial
4. Recreational

4. Definitions:

(a) Total cost:

1. Operation and maintenance costs derived from historical data plus estimated plant replacement costs to be determined from the previous year's records and any anticipated cost changes must be reconciled to the estimated annual total costs which shall be the hydraulic unit cost.

2. The total cost as determined above shall be divided by the total flow in gallons as recorded by the flow meter at the waste treatment plant.

(b) Quality standards:

1. The annual average BOD suspended solids pH and coliform count as determined by weekly sample analysis of the plant influent.

2. Average sample of plant organic, chemical equilibrium shall be excluded from the average.

3. The source of plant influent detrimental to the operation of the plant shall be determined by available methods.

(c) Quality evaluations:

1. Sewer charges shall be based on the quantity of water used as determined by water meter readings modified to exclude flows not directed into sewage system.

2. Contributors to the City sewage system who may obtain part or all of their supply from sources other than the Mobridge water system shall install and maintain such measuring and recording devices in their sewer discharge as may be required by the City Council.

(d) Rate evaluation:

1. Unit rates shall be established for the various user classifications based on a predetermined average quality and quantity for each class considered and their relations to the community.

(e) Pretreatment requirements:

1. Sewer users contributing unacceptable flows in the sewage system shall be required to construct, operate and maintain, at their expense, such pretreatment sampling and measuring plant as shall be required by the City Council.

(f) References:

Federal Guideline
Equitable Recovery of Industrial Waste Treatment Costs in
Municipal Systems, October 1971 or as subsequently amended
U.S. Environmental Protection Agency
Office of Water Program
Washington, D.C. 20460
Pages 1 through 9, inclusive

11-4-7 Other provisions

- a. Any duty or authority imposed on or given to the City Finance Officer may be performed and exercised by any employee of the City, designated by resolution of the common Council, which resolution of the common Council, which resolutions shall specify the duties and authority of the employee and to that extent the City Finance Officer will be relieved of his/her obligations herein.
- b. The City Finance Officer and other duly authorized employees and agents of the City shall be permitted to enter upon any premises at any reasonable time for the purpose of inspection, measurement and testing and performing such other functions as may be required under the provisions of this Ordinance.
- c. Nothing in this Ordinance shall contractually bind the City.

- d. All ordinances, resolutions or motions or parts thereof in conflict herewith are hereby repealed. The invalidity of any section, clause, sentence, or provision of this Ordinance shall not affect the validity of any other part of this Ordinance that can be given effect without such invalid part or parts.

11-4-8 Penalties

Violation of any of the provisions of 11-4-2, 11-4-3 and 11-4-5 of this Ordinance shall constitute a misdemeanor and any violator shall be fined not in excess of \$ 200.00. Conviction shall not preclude civil liability to the City for any damage caused the City by the illegal act.

11-4-9 Establishing Fees and Regulations for Sewer Usage Outside the City Limits

- a. Each owner or occupant of premises located outside the City limits of the City of Mobridge, South Dakota, connected to and using the City of Mobridge truck sewer system and facilities, shall pay a monthly sewer fee of two times the monthly sewer rental charge set for a similar user within the City limits of Mobridge, South Dakota.
- b. All other parts of this chapter where applicable shall apply to sewer users outside the City limits of the City of Mobridge, South Dakota.

11-4-10 National Plumbing Code to Govern

All provisions of the National Plumbing Code adopted in this Ordinance, insofar as said Code relates to sewers, shall govern and take precedence over this chapter, and in the event that any provisions of this chapter conflict with said National Plumbing Code, the provisions of said Code shall govern.

11-4-11 Cesspools, Septic Tanks and Drainage Fields

That all applications for construction of dwelling, business or commercial improvements where no direct sanitary sewer connection is available and cesspools, septic tanks and drainage fields are to be constructed shall require full compliance with all rules, regulations and requirements of the State of South Dakota Environmental Protection Agency under Chapter 34-4-1 of the South Dakota Compiled Laws of 1967 as amended effective march 1, 1975 and no application shall be approved by the Common Council except that the same shall be subject to said regulations and subject to inspection during construction for proof of compliance therewith.

Upon completion before such cesspool, septic tank and drainage field is put into use and operated the owner shall obtain a certificate from the City of Mobridge Zoning Officer.

11-4-12 Annexation – Termination

That any sewer services serving property outside the corporate limits of the City of Mobridge on the effective date shall be continued in accordance with existing

Ordinances and/or as per contract between such sewer user and the City of Mobridge. In the event the property receiving sewer services shall refuse or neglect to petition for annexation to the City of Mobridge, after notice in writing by mailing is given, said sewer services shall be terminated 90 days after mailing of said notice unless said property is annexed within that period of time.

TITLE 12 – FRANCHISES AND EASEMENTS

CHAPTER 12-1 – MDU

CHAPTER 12-2.1 – CABLE COMMUNICATIONS

CHAPTER 12-1 – MDU

12-1-1 Section I

For convenience, herein, said municipal corporation is designated and referred to as “Municipality” and Montana-Dakota Utilities Co. is designated and referred to as “Grantee”. Any reference to either includes their respective successors and assigns.

12-1-2 Section II

There is hereby granted to Montana-Dakota Utilities Co., a corporation, Grantee, its successors and assigns, subject to the limitations herein stated, the right and franchise to occupy and use the streets, alleys, and public grounds of the municipality as now, or hereafter constituted, for the purpose of constructing, maintaining, and operating, within, upon, in and under the same, an electric distribution system for transmitting and distributing electric energy for all public and private uses.

12-1-3 Section III

Grantee shall maintain an efficient distribution system for furnishing electric energy for public and private use during twenty-four (24) hours of each day.

12-1-4 Section VI

This franchise shall not be exclusive and shall not be construed to prevent the Municipality from granting to any other party the right to use the streets, alleys and public grounds of the Municipality for like purpose.

12-1-5 Section V

The Municipality reserves the right it may have, under its police power, or otherwise, to control or regulate the use of said streets, alleys and public grounds by Grantee.

12-1-6 Section VI

Grantee shall indemnify and save and hold the Municipality harmless from any loss or damage due to the construction, installation, and maintenance of the distribution system, and its use of the streets, alleys and public grounds of the Municipality.

12-1-7 Section VII

Grantee shall have the right to assign this franchise to any part, or corporation, but all obligations of the grantee hereunder shall be binding upon its successors and assigns.

12-1-8 Section VIII

Within thirty (30) days after passage and final approval of this Ordinance, Grantee shall file with the Clerk or Finance Officer of the Municipality, its written acceptance of this franchise.

12-1-9 Section IX

The franchise shall continue and remain in full force and effect for a period of twenty (20) years from the date of its final passage by the governing body of the Municipality.

CHAPTER 12-2 – MOBRIDGE CABLE TV

Repealed. (2005ORD815) (1998ORD746) (1972ORD485)

CHAPTER 12-2.1 CABLE COMMUNICATIONS

12-2.1-1. SHORT TITLE AND DEFINITIONS

Short Title. This Franchise Ordinance shall be known and cited as the Cable Communications Ordinance.

Definitions. For the purposes of this Franchise, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory. The word "may" is directory and discretionary and not mandatory.

"Basic Cable Service" means any service tier which includes the lawful retransmission of local television broadcast signals and any public, educational, and governmental access programming required by the franchise to be carried on the basic tier. Basic Cable Service as defined herein shall not be inconsistent with 47 U.S.C. § 543(b)(7) (1993).

"Cable Programming Service" means any Video Programming provided over a Cable System, regardless of service tier, including installation or rental of equipment used for the receipt of such Video Programming, other than:

Video Programming carried on the Basic Service Tier;

Video Programming offered on a pay-per-channel or pay-per-program basis; or

A combination of multiple channels of pay-per-channel or pay-per-program Video Programming offered on a multiplexed or time-shifted basis so long as the combined service:

consists of commonly-identified Video Programming; and

is not bundled with any regulated tier of service.

Cable Programming Service as defined herein shall not be inconsistent with the definition as set forth in 47 U.S.C. § 543(l)(2) (1993) and 47 C.F.R. 76.901(b) (1993).

"Cable Service" means the one-way transmission to Subscribers of Video Programming, or other programming service, and Subscriber interaction, if any, which is required for the selection of such Video Programming or other programming service.

"Cable System" or "System" means a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes Video Programming and which is provided to multiple Subscribers within a community, but such term does not include:

a facility that serves only to retransmit the television signals of one or more television broadcast stations;

a facility that serves Subscribers without using any public right-of-way;

a facility of a common carrier which is subject, in whole or in part, to the provisions of 47 U.S.C. §§ 201 et seq., except that such facility shall be considered a Cable System (other than for

purposes of 47 U.S.C. § 541 (c) to the extent such facility is used in the transmission of Video Programming directly to Subscribers, unless the extent of such use is solely to provide interactive on-demand services;

an open video system that complies with 47 U.S.C. § 653; or

any facilities of any electric utility used solely for operating its electric utility systems.

"City" means City of Mobridge, a municipal corporation, in the State of South Dakota, acting by and through its City Council.

"City Council" means the Mobridge, South Dakota City Council.

"Drop" means the cable that connects the ground block on the Subscriber's residence to the nearest feeder cable of the System.

"FCC" means the Federal Communications Commission and any legally appointed, designated or elected agent or successor.

"Franchise" means an initial authorization, or renewal thereof (including a renewal of an authorization which has been granted subject to 47 U.S.C. § 546) issued by a franchising authority, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, which authorizes the construction or operation of a Cable System.

"Grantee" is Midcontinent Communications, G.P., its agents and employees, lawful successors, transferees or assignees.

"Installation" means the connection of the System from feeder cable to the point of connection, including Standard Installations and custom installations.

(l) **"Lockout Device"** means an optional mechanical or electrical accessory to a Subscriber's terminal which inhibits the viewing of a certain program, certain channel, or certain channels provided by way of the Cable Communication System.

(m) **Open Video Services or OVS** means any video programming Services provided to any person by a Franchisee certified by the FCC to operate an Open Video System pursuant to Section 47 U.S.C. 573, as may be amended, regardless of the Facilities used.

(n) **"Pay Television"** means the delivery over the System of pay-per-channel or pay-per-program audio-visual signals to Subscribers for a fee or charge, in addition to the charge for Basic Cable Service or Cable Programming Services.

(o) **"Person"** is any person, firm, partnership, association, corporation, company, or other legal entity.

(p) **"Standard Installation"** means any residential installation which can be completed using a Drop of one hundred fifty (150) feet or less.

(q) **"Street"** means the surface of, and the space above and below, any public street, road, highway, freeway, lane, alley, path, court, sidewalk, parkway, or drive, or any easement or right-of-way now or hereafter held by City.

(r) **"Subscriber"** means any Person who lawfully receives Cable Television Service.

(s) **"Video Programming"** means programming provided by, or generally considered comparable to programming provided by, a television broadcast station. (2005ORD815)

12-2.1-2 GRANT OF AUTHORITY AND GENERAL PROVISIONS

Franchise Required. It shall be unlawful for any Person to construct, operate or maintain a Cable Communications System or Open Video System or other multichannel video service in City unless such Person or the Person for whom such action is being taken shall have first obtained and shall currently hold a valid Franchise Ordinance. It shall also be unlawful for any Person to provide OVS Service or Cable Service in City unless such Person shall have first obtained and shall currently hold a valid Franchise.

Grant of Franchise. This Franchise is granted pursuant to the terms and conditions contained herein.

Grant of Nonexclusive Authority.

The Grantee shall have the right and privilege to construct, erect, operate, and maintain, in, upon, along, across, above, over and under the Streets, alleys, public ways and public places now laid out or dedicated and all extensions thereof, and additions thereto in City, poles, wires, cables, underground conduits, manholes, and other television conductors and fixtures necessary for the maintenance and operation in City of a Cable Communications System as herein defined.

This Franchise shall be nonexclusive, and City reserves the right to grant a similar use of said Streets, alleys, public ways and places, to any Person at any time during the period of this Franchise, provided, however, that any additional Cable Franchise grants shall be under the same substantive terms and conditions as this Franchise.

Grantee shall have the authority to use City easements, public rights-of-way, Streets and other conduits for the distribution of Grantee's System. The City shall require all developers of future subdivisions to allow and accommodate the construction of the System as part of any provisions for utilities to serve such subdivisions.

Franchise Term.

(a) This Franchise shall be in effect for a period of fifteen (15) years from the date of acceptance by Grantee ("Effective Date"), unless renewed, revoked or terminated sooner as herein provided. City may conduct a review of Grantee's performance at the fifth and tenth anniversary of the Effective Date.

Previous Franchises. Upon acceptance by Grantee as required by Section 12 herein, this Franchise shall supersede and replace any previous Ordinance or Agreement granting a Franchise to Grantee to own, operate and maintain a Cable Communications System within City. Ordinance No. 681 is hereby expressly repealed.

Rules of Grantee. The Grantee shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable said Grantee to exercise its rights and perform its obligation under this Franchise.

Territorial Area Involved. This Franchise is granted for the corporate boundaries of City, as it exists from time to time. In the event of annexation by City, or as development occurs, any new territory shall become part of the area covered, provided, however, that Grantee shall not be required to extend service beyond its present System boundaries unless there is a minimum of ten (10) homes per quarter cable mile as measured from the last fiber node or terminating amplifier. Access to Cable Service shall not be denied to any group of potential residential cable Subscribers because of the income of the residents of the area in which such group resides. Grantee shall be given a reasonable period of time to construct and activate cable plant to service annexed or newly developed areas.

Written Notice. All notices, reports, or demands required to be given in writing under this Franchise shall be deemed to be given when delivered personally to any officer of Grantee or City's Administrator of this Franchise or forty-eight (48) hours after it is deposited in the United States mail in a sealed envelope, with registered or certified mail postage prepaid thereon, addressed to the party to whom notice is being given, as follows:

If to City: City of Mobridge
114 1st Ave. E.
Mobridge, South Dakota 57601-2692
Attn: City Administrator

If to Grantee: Midcontinent
Communications, G.P.
5001 W. 41st Street
Sioux Falls, SD 57106-1424

Attn: W. Tom Simmons

Such addresses may be changed by either party upon notice to the other party given as provided in this Section.

Drops to Public Buildings. Grantee shall provide Standard Installation of one (1) cable Drop, one (1) cable outlet, and monthly Basic Cable Service without charge to two (2) City-owned building chosen by the City and located in the City within one hundred fifty (150) feet of the System, excluding airports, nursing homes, hotels, residences of any kind, or other such public-use facilities. Grantee will also provide Standard Installation of one (1) cable Drop, one (1) cable outlet, and monthly Basic Cable Service without charge to all public and private elementary and secondary schools, excluding home schools, located in the City within one hundred fifty (150) feet of the System, upon request of the school system. No redistribution of the free Basic Cable Service provided pursuant to this Section shall be allowed. Additional Drops and/or outlets in any of the above locations will be provided by Grantee at the cost of Grantee's time and material. Alternatively, at the institution's request, said institution may add outlets at its own expense, as long as such installation meets Grantee's standards and provided that any fees for Cable Communications Services are paid. Nothing herein shall be construed as requiring Grantee to extend the System to serve additional institutions as may be designated by City. Grantee shall have one (1) year from the date of City Council designation of additional institution(s) to complete construction of the Drop and outlet. (2005ORD815)

12-2.1-3 CONSTRUCTION STANDARDS

1.) Construction Codes and Permits.

Grantee shall obtain all required permits from City before commencing any construction upgrade or extension of the System, including the opening or disturbance of any Street, or private or public property within City.

The City shall impose no permit fees upon Grantee given that Grantee pays Franchise Fees pursuant to this Franchise.

The City shall have the right to inspect all construction or installation work performed pursuant to the provisions of the Franchise and to make such tests at its own expense as it shall find necessary to ensure compliance with the terms of the Franchise and applicable provisions of local, state and federal law.

2.) Repair of Streets and Property. Any and all Streets or public property or private property, which are disturbed or damaged during the construction, repair, replacement, relocation, operation, maintenance or reconstruction of the System shall be promptly and fully restored by Grantee, at its expense, to a condition as good as that prevailing prior to Grantee's work.

3.) Conditions on Street Use.

(a) If at any time during the period of this Franchise City shall elect to alter, or change the grade or location of any Street, alley or other public way, the Grantee shall, at its own expense, upon reasonable notice by City, remove and relocate its poles, wires, cables, conduits, manholes and other fixtures of the System, and in each instance comply with the standards and specifications of City. If City reimburses other occupants of the Street, Grantee shall be likewise reimbursed.

(b) The Grantee shall, on request of any Person holding a moving permit issued by City, temporarily move its wires or fixtures to permit the moving of buildings with the expense of such temporary removal to be paid by the Person requesting the same, and the Grantee shall be given not less than ten (10) days advance notice to arrange for such temporary changes.

(c) The Grantee shall have the authority to trim any trees upon and overhanging the Streets, alleys, sidewalks, or public easements of City so as to prevent the branches of such trees from coming in contact with the wires and cables of the Grantee.

Nothing contained in this Franchise shall relieve any Person from liability arising out of the failure to exercise reasonable care to avoid injuring Grantee's facilities.

4.) Undergrounding of Cable.

(a) In all areas of City where all other utility lines are placed underground, Grantee shall construct and install its cables, wires and other facilities underground.

(b) In any area of City where one or more public utilities are aerial, Grantee may construct and install its cables, wires and other facilities from the same pole with the consent of the owner of the pole.

5.) Safety Requirements. The Grantee shall at all times employ ordinary and reasonable care and shall install and maintain in use nothing less than commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public. (2005ORD815)

12-2.1-4 DESIGN PROVISIONS

Operation and Maintenance of System. The Grantee shall render effective service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible. Such interruption, to the extent feasible, shall be preceded by notice in accordance with Section 2.8 herein and shall occur during periods of minimum use of the System.

Technical Standards. The technical standards used in the operation of the System shall comply, at minimum, with the technical standards promulgated by the FCC relating to cable communications systems pursuant to the Federal Communications Commission's rules and regulations and found in Title 47, Section 76.601 to 76.617, as may be amended or modified from time to time.

Lockout Device. Upon the request of a Subscriber, Grantee shall provide by sale or lease a Lockout Device. (2005ORD815)

12-2.1-5 SERVICES PROVISIONS

Subscriber Inquiry and Complaint Procedures. Grantee shall have a publicly listed toll-free telephone number and be operated so as to receive Subscriber complaints and requests on a twenty-four (24) hour-a-day, seven (7) days-a-week basis.

Refund Policy. In the event a Subscriber established or terminates service and receives less than a full month's service, Grantee shall prorate the monthly rate on the basis of the number of days in the period for which service was rendered to the number of days in the billing. (2005ORD815)

12-2.1-6 EDUCATIONAL AND GOVERNMENTAL ACCESS

Educational and Government Access.

Grantee shall dedicate two (2) channels for Educational and Governmental use ("EG Access") to the City for public noncommercial, noncompetitive uses. Grantee shall have the right to use any portion of said channels that is not being used by the City.

All residential Subscribers who receive all or any part of the total services offered on the System shall be eligible to receive said access channel at no additional charge. (2005ORD815)

12-2.1-7 OPERATION AND ADMINISTRATION PROVISIONS

Indemnification of City.

City, its officers, boards, committees, commissions, elected officials, employees and agents shall not be liable for any loss or damage to any real or personal property of any Person, or for any injury to or death of any Person, arising out of or in connection with the construction, operation, maintenance, repair or removal of, or other action or event with respect to the System.

Grantee shall indemnify, defend, and hold harmless City, its officers, boards, committees, commissions, elected officials, employees and agents, from and against all liability, damages, and penalties which they may legally be required to pay as a result of the exercise of the Franchise, except claims because of EG programming or, the City's operation, administration, promotion or management of the EG access channel(s) or any use of Internet Services in public institutions.

Nothing in this Franchise relieves a Person from liability arising out of the failure to exercise reasonable care to avoid injuring the Grantee's facilities while performing work connected with grading, regarding, or changing the line of a Street or public place or with the construction or reconstruction of a sewer or water system.

In order for City to assert its rights to be indemnified, defended, and held harmless, City must with respect to each claim:

Promptly notify Grantee in writing of any claim or legal proceeding which gives rise to such right; Afford Grantee the opportunity to participate in and fully control any compromise, settlement or other resolution or disposition of any claim or proceeding; and

Fully cooperate with reasonable requests of Grantee, at Grantee's expense, in its participation in, and control, compromise, settlement or resolution or other disposition of such claim or proceeding subject to paragraph two (2) above.

Insurance.

As a part of the indemnification provided in Section 7.1, but without limiting the foregoing, Grantee shall file with its acceptance of this Franchise, and at all times thereafter maintain in full force and effect at its sole expense, a comprehensive general liability insurance policy, including contractual liability coverage, in protection of City in its capacity as such. The policies of insurance shall be in the sum of not less than Five Hundred Thousand Dollars (\$500,000) for personal injury or death of any one Person, and One Million Dollars (\$1,000,000) for personal injury or death of two or more Persons in any one occurrence, Five Hundred Thousand Dollars (\$500,000) for property damage to any one Person and One Million Dollars (\$1,000,000) for property damage resulting from any one act or occurrence.

The policy or policies of insurance shall be maintained by Grantee in full force and effect during the entire term of the Franchise. Each policy of insurance shall contain a statement on its face that the insurer will not cancel the policy or fail to renew the policy, whether for nonpayment of premium, or otherwise, and whether at the request of Grantee or for other reasons, except after thirty (30) days' advance written notice have been provided to City.

3.) Franchise Fee. Grantee shall pay to City a franchise fee of three percent (3%) of revenue for Basic Cable Service. The fee shall be payable monthly and shall be accompanied by a brief report showing the basis for the computation of the fee. (2005ORD815)

12-2.1-8 REVOCATION, ABANDONMENT, AND SALE OR TRANSFER

1.) City's Right to Revoke. In addition to all other rights which City has pursuant to law or equity, City reserves the right to revoke, terminate or cancel this Franchise, and all rights and privileges pertaining thereto, if after the hearing required by Section 8.2(b) herein, it is determined that Grantee has violated any material provision of this Franchise.

2.) Procedures for Revocation.

(a) City shall provide Grantee with written notice of a cause for revocation and the intent to revoke and shall allow Grantee sixty (60) days subsequent to receipt of the notice in which to correct the violation or to provide adequate assurance of performance in compliance with the Franchise. Together with the notice required herein, City shall provide Grantee with written findings of fact which are the basis of the revocation.

(b) Grantee shall be provided the right to a public hearing affording due process before the City Council prior to revocation, which public hearing shall follow the sixty (60) day notice provided in paragraph (a) above. City shall provide Grantee with written notice of its decision together with written findings of fact supplementing said decision.

After the public hearing and upon written determination by City to revoke the Franchise, Grantee may appeal said decision with an appropriate state or federal court or agency.

During the appeal period, the Franchise shall remain in full force and effect unless the term thereof sooner expires.

Upon satisfactory correction by Grantee of the violation upon which said notice was given, the initial notice shall become void.

Abandonment of Service. Grantee may not abandon the System or any portion thereof without having first given three (3) months written notice to City.

4.) Sale or Transfer of Franchise. No sale or transfer of this Franchise shall take place without the written approval of the City, which approval shall not be unreasonably withheld. All of the rights, privileges, obligations, duties, and liabilities created by this Franchise shall pass to and be binding upon the successor or assign of Grantee. Said approval shall not be required where Grantee grants a security interest in its Franchise and assets to secure an indebtedness. (2005ORD815)

12-2.1-9 PROTECTION OF INDIVIDUAL RIGHTS

Discriminatory Practices Prohibited. Grantee shall not deny service, deny access, or otherwise discriminate against Subscribers or general citizens on the basis of race, color, religion, national origin, sex or age. Grantee shall comply at all times with all other applicable federal, state, and city laws, and all executive and administrative orders relating to nondiscrimination.

Subscriber Privacy. Grantee shall comply with the terms of 47 U.S.C. § 551 relating to the protection of Subscriber privacy. (2005ORD815)

12-2.1-10 UNAUTHORIZED CONNECTIONS AND MODIFICATIONS

1.) Unauthorized Connections or Modifications Prohibited. It shall be unlawful for any firm, Person, group, company, corporation, or governmental body or agency, without the express consent of the Grantee, to make or possess, or assist anybody in making or possessing, any connection, extension, or division, whether physically, acoustically, inductively, electronically or otherwise, with or to any segment of the System.

2.) Removal or Destruction Prohibited. It shall be unlawful for any firm, Person, group, company, corporation, or government body or agency to willfully interfere, tamper, remove, obstruct, or damage, or assist thereof, any part or segment of the System for any purpose whatsoever.

Penalty. Any firm, Person, group, company, corporation or government body or agency found guilty of violating this Section may be fined not less than Twenty Dollars (\$20.00) and the costs of the action nor more than Five Hundred Dollars (\$500.00) and the costs of the action for each and every subsequent offense. Each continuing day of the violation shall be considered a separate occurrence. (2005ORD815)

12-2.1-11 MISCELLANEOUS PROVISIONS

Franchise Renewal. Any renewal of this Franchise shall be done in accordance with applicable federal, state and local laws and regulations.

Amendment of Franchise Ordinance. Grantee and City may agree, from time to time, to amend this Franchise. Such written amendments may be made at any time if City and Grantee agree that such an amendment will be in the public interest or if such an amendment is required due to changes in federal, state or local laws. City shall act pursuant to local law pertaining to the ordinance amendment process. (2005ORD815)

12-2.1-12 PUBLICATION, EFFECTIVE DATE AND ACCEPTANCE

1.) Publication; Effective Date. This Franchise shall be published in accordance with applicable South Dakota law. The effective date of this Franchise shall be the date of acceptance by Grantee in accordance with the provisions of Section 12.2. The Grantee shall assume the cost of publication of this franchise as such publication is required by law and such is payable upon the Grantee's filing of acceptance of this Franchise.

2.) Acceptance.

Grantee shall accept this Franchise by executing same. Such acceptance by the Grantee shall be deemed the grant of this Franchise for all purposes.

Upon acceptance of this Franchise, Grantee shall be bound by all the terms and conditions contained herein.

Grantee shall accept this Franchise in the following manner:

This Franchise will be properly executed and acknowledged by Grantee and delivered to City. With its acceptance, Grantee shall also deliver any insurance certificates required herein that have not previously been delivered. (2005ORD815)

12-2.1-13 ORDINANCE REPEALED

All ordinances or parts of Ordinances in conflict with provisions of this Ordinance are hereby repealed. (2005ORD815)

TITLE 13-GENERAL PENALTY REPEALING CLAUSE

CHAPTER 13-1- GENERAL PENALTY CHAPTER 13-2- REPEALING CLAUSE

CHAPTER 13-1- GENERAL PENALTY

13-1-1 General Penalty

Except as in this Ordinance otherwise specifically provided, any person or persons, firm or corporation violating any of the provisions of this Ordinance or failing to comply with any of the provisions thereof, shall be deemed guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine and/or jail not exceeding the penalty set by SDCL 22-6-2. (2006ORD842)

CHAPTER 13-2- REPEALING CLAUSE

13-2-1 Conflicting Ordinances Repealed

All Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance or relating to the subject matter of this Ordinance and not re-enacted as part of this Ordinance, except as stated in this chapter, are hereby repealed; provided however, that nothing herein shall be construed as repealing any special Ordinances, appropriation ordinances, franchise ordinances, levying ordinances for the issuance of bonds or special ordinances for the issuance of bonds or special ordinances of like character, nor shall this ordinance repeal or modify the provisions of any zoning ordinances or other ordinances requiring a special method of adoption, nor shall this Ordinance repeal or modify the provisions of any resolution heretofore adopted by the City of Mobridge unless the provisions of this Ordinance either modify, repeal or amend such resolution; and all such Ordinances and resolutions shall remain in full force and effect.

13-2-2 Publication and Effect

This Ordinance shall be printed or photocopied as may be directed by the City Council and shall take effect immediately upon its adoption and the completed publication of notice as provided SDCL 9-19-17 and all acts amendable.

13-2-3 Validity

Should any section, paragraph, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of this Ordinance shall not be affected thereby.

TITLE 14 TAXATION

CHAPTER 14-1 - SALES, SERVICE AND USE TAX - REPEALED

CHAPTER 14-2 - ADDITIONAL ONE PERCENT RETAIL SALES AND SERVICE TAX AND USE TAX - REPEALED

CHAPTER 14-3 MUNICIPAL SALES AND SERVICE TAX AND USE TAX

CHAPTER 14-4 GROSS RECEIPTS TAX

CHAPTER 14-1 SALES, SERVICE AND USE TAX -Repealed

CHAPTER 14-2 ADDITIONAL ONE PERCENT RETAIL SALES AND SERVICE TAX AND USE TAX - Repealed

14-3-1 PURPOSE.

The purpose of this ordinance is to provide additional needed revenue for the Municipality Mobridge, Walworth 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. (2003 ORD 799)

14-3-2 EFFECTIVE DATE AND ENACTMENT OF TAX.

From and after the first day of January, 2006, there is hereby imposed as a municipal retail occupational sales and service tax upon the privilege of engaging in business a tax measured by two percent (2%) on the gross receipts of all persons engaged in business within the jurisdiction of the Municipality of Mobridge, Walworth County, South Dakota, who are subject to the South Dakota Retail Occupational Sales and Service Tax, SDCL 10-45 and acts amendatory thereto. (2003 ORD 799) (2005 ORD 818)

14-3-3 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 tangible personal property or services purchased from and after the first of January, 2004, at the same rate as the municipal sales and service tax upon all transactions or use, storage and consumption which are subject to the South Dakota Use Tax Act, SDCL 10-46, and acts amendatory thereto. (2003 ORD 799)

14-3-4 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 and Regulation in accordance with the same rules and regulations applicable to the State Sales Tax and under such additional rules and regulations as the Secretary of Revenue and Regulation of the State of South Dakota shall lawfully prescribe. (2003 ORD 799)

14-3-5 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 hereto, and that this shall be considered a similar tax except for the rate thereof to that tax. (2003 ORD 799)

14-3-6 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 \$200 or imprisoned in the municipal 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 and Regulation. (2003 ORD 799)

14-3-7 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. (2003 ORD 799)

14-3-8 ADMINISTRATIVE ACT.

This ordinance is adopted to amend the existing sales tax ordinances in order to comply with House Bill 1002 and Senate Bill 76 passed during the 2003 South Dakota Legislative Session. Any changes to the existing sales tax ordinance are administrative and therefore not subject to referendum. (2003 ORD 799)

14-3-9 REPEAL.

Effective January 1, 2004, Chapter 14-1 Sales, Service and Use Tax and Chapter 14-2, Additional One Percent Retail Sales and Service Tax and Use Tax are hereby repealed. Any ordinance inconsistent with or in conflict with this ordinance is hereby repealed. (2003 ORD 799; 2000 ORD 767; 1999 ORD 757; 1995 ORD 725; 1988 ORD 666)

CHAPTER 14-4 GROSS RECEIPTS TAX

14-4-1.PURPOSE.

The purpose of this ordinance is to provide additional needed revenue for the Municipality of Mobridge, Walworth County, South Dakota, by imposing a municipal gross receipts tax pursuant to the powers granted to the municipality by the State of South Dakota, by SDCL 10-52A, and acts amendatory thereto.

14-4-2.EFFECTIVE DATE AND ENACTMENT OF TAX.

From and after the first day of July, 2009 until June 30, 2014, there is hereby imposed a municipal gross receipts tax of One Percent (1%) upon the gross receipts from the sale of leases or rentals of hotel, motel, campsites or other lodging accommodations within the municipality for periods of less than twenty-eight (28) consecutive days, the sale of alcoholic beverages as defined in SDCL 35-1-1, or establishments where the public is invited to eat, dine or purchase and carry out prepared food for immediate consumption. The tax applied to the gross receipts of all persons engaged in business within the jurisdiction of the Municipality of Mobridge, Walworth County, South Dakota, who are subject to the South Dakota Retail Occupational Sales and Service Tax, SDCL 10-45 and acts amendatory thereto.

14-4-3.COLLECTION.

Such tax is levied pursuant to authorization granted by SDCL 10-52A 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.

14-4-4.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 that this shall be considered a similar tax except for the rate thereof to that tax.

14-4-5.USE OF REVENUE.

Any revenues received under this ordinance may be used for the purposes of land acquisition, architectural fees, construction costs, payments for civic center, auditorium, or athletic facility buildings, including the maintenance, staffing, and operations of such facilities and the promotion and advertising of the city, its facilities, attractions, and activities. All proceeds of this tax shall be distributed to the Mobridge Chamber of Commerce for administration of which 60% of the revenue shall be used by the Mobridge Chamber of Commerce and 30% shall be used by the North Central South Dakota Economic Development committee of the Mobridge Chamber of Commerce and the remaining 10% of the revenues shall be retained by the Mobridge Chamber of Commerce in reserve for special needs.

14-4-6.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 \$200.00 or imprisoned in the municipal 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, are hereby authorized for the collection of these excise taxes by the Department of Revenue.

14-4-7.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 of other persons or circumstances shall not be affected thereby.